By Mrs. McCARTHY: A bill (H.R. 9819) granting a pension to Bertha A. Kendall; to the Committee on Pensions.

By Mr. SHALLENBERGER: A bill (H.R. 9820) for the relief of the State of Nebraska; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

4863. By Mr. BOYLAN: Resolution unanimously adopted at the Forty-second Annual Convention of the National-American Wholesale Lumber Association, held at Washington, D.C., favoring the immediate passage of Senate bill 3606 and House bill 9620, to improve Nation-wide housing standards, and so forth; to the Committee on Banking and Currency.

4864. Also, resolution unanimously adopted by the Supreme Council Catholic Benevolent Legion, Brooklyn, N.Y., favoring the amendment to section 301 of the Radio Act; to the Committee on Merchant Marine, Radio, and Fisheries.

4865. By Mr. CONDON: Petition of the Rhode Island Development Conference urging the passage of House bill 9177, a bill authorizing the Reconstruction Finance Corporation to loan $12,000,000 to the Respess Aeronautical Corporation for the construction and operation of two suspension-bridge-type airships in trans-Atlantic service; to the Committee on Banking and Currency.

4866. By Mr. LEHR: Petition of the United Brotherhood of Carpenters and Joiners of America, Union No. 512, of Ann Arbor, Mich., urging passage of the Wagner-Lewis bill; to the Committee on Labor.

4867. By Mr. LINDSAY: Petition of the L. J. Cullen Co., Chicago, Ill., urging support of the amendment to House bill 9528; to the Committee on Agriculture.

4868. Also, petition of the National Association of Manufacturers, Washington, D.C., concerning the Wagner labor-disputes bill (S. 2926); to the Committee on Labor.

4869. By Mr. THOMAS: Petition of 24 citizens of Fort Edward, Washington County, N.Y., urging support of bills pending to protect the rights of the American Indians; to the Committee on Indian Affairs.

4870. By the SPEAKER: Petition of the City Council of the City of Chicago, regarding amendment to the loans-to-industry bill, authorizing the Reconstruction Finance Corporation to make loans up to $75,000,000 to school districts; to the Committee on Banking and Currency.

4871. Also, petition of the Texas Bankers' Association, favoring Federal assistance in cooperation with State authorities in the enforcement of laws regulating the movement of oil in commerce; to the Committee on Interstate and Foreign Commerce.

4872. Also, petition of D. O. Tenney and numerous other citizens of Sacramento, Calif., endorsing House bill 9596; to the Committee on Interstate and Foreign Commerce.

4873. Also, petition of the American Technotax Society, Whittier, Calif., requesting an appropriation of $100,000, or as much as may be required, to conduct a comprehensive survey of the man power or man displacement of machines and equipment used in mass production; to the Committee on Ways and Means.

4874. Also, petition of Local Union No. 96, Washington, D.C., of the Journeymen Plasterers (International Association), endorsing the Walsh resolution providing an appropriation of $25,000 for an investigation of the so-called "kick-back racket" by plastering contractors; to the Committee on Labor.

4875. Also, petition of the Ohio State Association of the Improved Benevolent Order of Elks of the World, office of the Civil Liberties Commission, Cleveland, Ohio, endorsing all antilynching bills; to the Committee on the Judiciary.

4876. Also, Cragin State Bank Depositors Organization, Chicago, Ill., urging the passage of the bill to pay off all depositors of all banks closed since January 1, 1930; to the Committee on Banking and Currency.

4877. Also, petition of D. O. Tenney, Sacramento, Calif., urging passage of the rail pension bill H.R. 9596, the petition being signed by numerous persons, and a statement attached thereto that 2,700 railroad employees had been contacted; to the Committee on Interstate and Foreign Commerce.

4878. Also, petition of the Board of Trustees of the Village of Bellwood, Ill., making a plea for aid of distressed municipalities; to the Committee on Coinage, Weights, and Measures.

4879. Also, petition of a community mass meeting held in the Radnor High School, Wayne, Pa., backing the McLeod banking bill; to the Committee on Banking and Currency.

4880. Also, petition of C. A. Compton and numerous others, of Tucson, Ariz., urging legislation, this Congress, for the laboring people; to the Committee on Ways and Means.

4881. Also, petition of Caroline B. Butler and numerous other citizens of Cambridge and other Massachusetts cities, supporting the amendment to section 301 of Senate bill 2910, providing for the insurance of equity of opportunity for non-profit-making associations seeking licenses for radio broadcasting; to the Committee on Merchant Marine, Radio, and Fisheries.

4882. Also, petition of the Catholic Benevolent Legion, Brooklyn, N.Y., supporting the amendment to section 301 of Senate bill 2910, providing for the insurance of equity of opportunity for non-profit-making associations seeking licenses for radio broadcasting; to the Committee on Merchant Marine, Radio, and Fisheries.

4883. Also, petition of the Independent Petroleum Association, Los Angeles, Calif., urging Congress to reject the proposed Federal oil-control legislation; to the Committee on Interstate and Foreign Commerce.

4884. Also, petition of numerous persons, of Baylis, Ill., urging passage of the Railroad Retirement Act (S. 3231 and H.R. 9596); to the Committee on Interstate and Foreign Commerce.

4885. Also, petition of the Independent Petroleum Jobbers' Association of Pennsylvania, Mount Joy, Pa., disapproving and opposing the enactment of the Federal Petroleum Act (S. 3495) and the Disney bill (H.R. 9676); to the Committee on Interstate and Foreign Commerce.

4886. Also, petition of the National-American Wholesale Lumber Association, Inc., New York City, favoring the passage of Senate bill 3603 and House bill 9620; to the Committee on Banking and Currency.

4887. Also, petition of Gran Logia Soberana de L. y A. M. de Puerto Rico, San Juan, P.R., favoring the bill of Mr. LANZETTA which excludes the Island of Puerto Rico from coastwise-shipping laws; to the Committee on Merchant Marine, Radio, and Fisheries.

4888. Also, petition of the Wisconsin Conference of the Evangelical Church, renouncing war; to the Committee on Military Affairs.

4889. Also, petition of numerous employees, of the Chicago, Milwaukee & St. Paul Railroad, urging the passage of Senate bill 3231; to the Committee on Interstate and Foreign Commerce.

SENATE

FRIDAY, JUNE 1, 1934

(Legislative day of Monday, May 28, 1934)

The Senate met at 10:30 a.m., on the expiration of the recess.

THE JOURNAL

On motion of Mr. ROBINSON of Arkansas, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Thursday, May 31, was dispensed with, and the Journal was approved.

DISPOSITION OF CERTAIN LIGHTHOUSE RESERVATIONS

The VICE PRESIDENT laid before the Senate a letter from the Secretary of Commerce, transmitting a draft of proposed legislation authorizing the Secretary of Commerce to dispose of certain lighthouse reservations, and for other purposes, which, with the accompanying paper, was referred to the Committee on Commerce.

DISPOSITION OF USELESS PAPERS—SMITHSONIAN INSTITUTION

The VICE PRESIDENT laid before the Senate a letter from the Acting Secretary of the Smithsonian Institution, reporting, pursuant to law, relative to certain papers and documents on the files of the National Museum which are not needed in the transaction of business and have no permanent value or historical interest, and asking for action looking toward their disposition, which was referred to a Joint Select Committee on the Disposition of Useless Papers in the Executive Departments.

The VICE PRESIDENT appointed Mr. BARKLEY and Mr. FESS members of the committee on the part of the Senate.

COUNCIL OF NATIONAL DEFENSE

Mr. ROBINSON of Arkansas. Mr. President, there are here presented the volumes containing a digest of the proceedings during the World War of the Council of National Defense and the Advisory Commission, based on personal attendance at meetings of the Advisory Commission, joint meetings of the Council of National Defense and the Advisory Commission, the General Munitions Board, the War Industries Board, the General Medical Board and its executive committee and subcommittees, and other commissions and committees, minutes of meetings, and other data of very great importance.

This information has been compiled by Dr. Franklin H. Martin, of Chicago, Ill., who was a member of the Advisory Commission, and who is, and for many years has been, one of the outstanding surgeons of the country.

I ask that the volumes mentioned may be referred to the Committee on Printing with a view to having an estimate made of the cost of publication of the records.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

PETITION

Mr. CAPPER presented a letter in the nature of a petition from sundry citizens, being members and friends of Neelands Chapel of the Methodist Episcopal Church of Stafford County, Kans., praying for the passage of the bill (S. 3015) prohibiting the advertising of intoxicating liquors through the medium of radio broadcast, which was referred to the Committee on Interstate Commerce.

REPORTS OF COMMITTEES

Mr. McCARRAN, from the Committee on the Judiciary, to which was referred the bill (S. 3580) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto, reported it with an amendment and submitted a report (No. 1215) thereon.

He also, from the Committee on the District of Columbia, to which was referred the bill (H.R. 9184) to authorize the Commissioners of the District of Columbia to sell the old Tenley School to the duly authorized representative of St. Ann's Church of the District of Columbia, reported it without amendment and submitted a report (No. 1224) thereon.

Mr. FLETCHER, from the Committee on Military Affairs, to which was referred the joint resolution (S.J.Res. 128) to authorize the acceptance on behalf of the United States of the bequest of the late Charlotte Taylor, of the city of St. Petersburg, State of Florida, for the benefit of Walter Reed General Hospital, reported it without amendment and submitted a report (No. 1216) thereon.

Mr. SHEPPARD, from the Committee on Military Affairs, to which was referred the bill (H.R. 387) donating bronze trophy guns to the Cohoes Historical Society, Cohoes, N.Y., reported it without amendment and submitted a report (No. 1217) thereon.

Mr. BACHMAN, from the Committee on Military Affairs, to which was referred the bill (S. 3627) for the relief of Felix Griego, reported it with an amendment and submitted a report (No. 1230) thereon.

He also, from the same committee, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 2452. An act authorizing the President of the United States to appoint Sgt. Alvin C. York as a major in the United States Army and then place him on the retired list (Rept. No. 1231); and

H.R. 5809. An act to provide compensation for Robert Rayford Wilcoxson for injuries received in citizens' military training camp (Rept. No. 1232).

Mr. BARKLEY, from the Committee on Finance, to which was referred the bill (S. 2156) for the relief of the American-La France & Foamite Corporation of New York, reported it without amendment and submitted a report (No. 1218) thereon.

Mr. GEORGE, from the Committee on Finance, to which was referred the bill (S. 852) to amend section 24 of the Trading with the Enemy Act, as amended, reported it with an amendment and submitted a report (No. 1219) thereon.

Mr. LA FOLLETTE, from the Committee on Finance, to which was referred the bill (H.R. 9234) to amend section 601 (c) (2) of the Revenue Act of 1932, reported it without amendment and submitted a report (No. 1226) thereon.

Mr. COPELAND, from the Committee on the District of Columbia, to which was referred the bill (H.R. 6037) to exempt from taxation certain property of the National Society of the Sons of the American Revolution, reported it without amendment and submitted a report (No. 1220) thereon.

Mr. CAREY, from the Committee on the District of Columbia, to which was referred the bill (H.R. 6130) to prevent misrepresentation and deception in the sale of milk and cream in the District of Columbia, reported it without amendment and submitted a report (No. 1221) thereon.

Mr. DAVIS, from the Committee on the District of Columbia, to which was referred the bill (H.R. 8517) to provide for needy blind persons of the District of Columbia, reported it without amendment and submitted a report (No. 1222) thereon.

Mr. KING, from the Committee on the District of Columbia, to which was referred the bill (H.R. 9007) to amend section 11 of the District of Columbia Alcoholic Beverage Control Act, reported it without amendment and submitted a report (No. 1223) thereon.

Mr. KEAN, from the Committee on the District of Columbia, to which was referred the bill (H.R. 9622) to amend subsection (a) of section 23 of the District Alcoholic Beverage Control Act, reported it without amendment and submitted a report (No. 1225) thereon.

Mr. BONE, from the Committee on Territories and Insular Affairs, to which were referred the following bill and joint resolution, reported them each without amendment and submitted reports thereon:

H.R. 8639. An act to repeal certain laws providing for the protection of sea lions in Alaska waters (Rept. No. 1227); and

S.J.Res. 119. Joint resolution authorizing a preliminary examination or survey of a ship canal across Prince of Wales Island, Alaska (Rept. No. 1228).

Mr. WALCOTT, from the Committee on Banking and Currency, to which was referred the bill (H.R. 8833) to authorize the coinage of 50-cent pieces in commemoration of the three hundredth anniversary of the founding of the Colony of Connecticut, reported it without amendment.

Mr. DILL, from the Committee on Interstate Commerce, to which was referred the joint resolution (S.J.Res. 115) to provide for the continuation of the investigation authorized by Senate Resolution 83, Seventieth Congress, first session, reported it with an amendment and submitted a report (No. 1233) thereon.

Mr. THOMAS of Utah, from the Committee on Military Affairs, to which was referred the joint resolution (S.J.Res. 101) authorizing the publication as a public document of America Secure Analytical Register of Regular Army Officers and Security Statistics, with graphs, 1775–1934, reported it with an amendment and submitted a report (No. 1234) thereon.

Mr. BAILEY, from the Committee on Finance, to which was referred the bill (S. 3224) authorizing the Secretary of the Treasury to execute a certain indemnity agreement, reported it with an amendment and submitted a report (No. 1235) thereon.

Mr. WAGNER, from the Committee on Public Lands and Surveys, to which was referred the bill (S. 3562) for the relief of Robert Rayl, reported it without amendment and submitted a report (No. 1236) thereon.

Mr. PITTMAN, from the Committee on Foreign Relations, to which was referred the joint resolution (S.J.Res. 81) to provide for defraying the expenses of the American Section, International Boundary Commission, United States and Mexico, reported it without amendment and submitted a report (No. 1237) thereon.

Mr. ASHURST, from the Committee on Public Lands and Surveys, to which was referred the resolution (S.Res. 198) creating a select committee to investigate charges against the superintendent of the Shiloh National Park, Tenn., reported it without amendment.

FINANCING OF MAYFLOWER HOTEL CORPORATION IN THE DISTRICT

Mr. KEAN, from the Committee on the District of Columbia, to which was referred the resolution (S.Res. 231) providing for an investigation of the financing and proposed reorganization of the Mayflower Hotel Co., reported it with amendments, and moved that the resolution be referred to the Committee to Audit and Control the Contingent Expenses of the Senate, which motion was agreed to.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BONE:

A bill (S. 3715) for the relief of Harry J. Tucker; to the Committee on Civil Service.

By Mr. WHEELER:

A bill (S. 3716) granting a pension to Clara Stuart; to the Committee on Pensions.

By Mr. BYRD:

A bill (S. 3717) for the relief of Linda Wright Ward; and

A bill (S. 3718) to extend the benefits of the Employees' Compensation Act of September 7, 1916, to Emma A. Quillin; to the Committee on Claims.

By Mr. STEPHENS:

A bill (S. 3719) to provide a preliminary examination of the Big Black River in the State of Mississippi with a view to the control of its floods; to the Committee on Commerce.

CHANGE OF REFERENCE

On motion of Mr. MCKELLAR, the Committee on Finance was discharged from the further consideration of the bill (H.R. 6379) to amend title II, section 203 (a) (2), chapter 90, Public Acts of Seventy-third Congress, and it was referred to the Committee on Banking and Currency.

RECIPROCAL TARIFF AGREEMENTS—AMENDMENTS

Mr. DAVIS submitted an amendment and Mr. STEIWER submitted two amendments intended to be proposed by them, respectively, to the bill (H.R. 8687) to amend the Tariff Act of 1930, which were ordered to lie on the table and to be printed.

JOHN HOWARD PAYNE AND HIS SONG—ADDRESS BY SENATOR DILL

Mr. ASHURST. Mr. President, on Memorial Day last the senior Senator from Washington [Mr. DILL] delivered a notable oratorical address at Oak Hill Cemetery, Washington, D.C., on John Howard Payne and his song, Home, Sweet Home. The address is so beautiful and the subject, "home", is so precious and so dear, that I ask unanimous consent to have the speech of the Senator from Washington printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

We meet today to pay tribute and to gain inspiration. We pay tribute to the memory of John Howard Payne, because he wrote the most universal song that human tongue has ever sung. We gain inspiration from the lesson which the endless popularity of this song teaches, namely, that simple things are mightiest and that the heart rules our lives as the head never can.

John Howard Payne was born in 1791. That was 2 years after the Constitution became effective as our form of government. He was born in New York, just a few blocks from the place where George Washington took the oath as our first President.

As a boy of 17 he left college to go on the stage. He made a great success as a young actor. He played in New York, in Baltimore, and, in the summer of 1809, he played for a week at the old Theater Comique here in Washington.

Among those who saw him there was William A. Corcoran, then a boy of 11 years. He went every night to see Payne play. This would not be important except for the fact that 74 years later this same Corcoran had Payne's body brought from Tunis, where he had died while serving as American consul 30 years before. He was buried here in Oak Hill Cemetery June 9, 1883. The President, the Cabinet, the Supreme Court, and Members of Congress, along with a great outpouring of citizens, attended the burial ceremonies.

Payne's years as a wandering actor, playwright, and producer abounded in all the misfortunes and tribulations of such a life. His troubles seemed greatest during the 10 years immediately before he wrote Home, Sweet Home, while he was wandering over Europe.

Those were checkered days—days of dreams and disappointments, high hopes, and deep despair; sometimes in jail as in Liverpool in 1813 because he was a citizen of a country with which England was at war; sometimes winning great success by playing leading roles in Paris and London theaters; sometimes wandering through Italy and Sicily, a troubadour of the stage; sometimes in a debtor's prison because of financial failure as a theatrical producer; sometimes amazing even his friends by such brilliant accomplishments as translating a French play while in prison and selling it for enough to pay his debts and win his freedom. Then back to Paris, where he met Washington Irving, who assisted him in translating French plays and writing musical productions, until in 1823 he wrote Clari, the Maid of Milan, with Home, Sweet Home as the theme song, and sold it to an English producer for £50.

It is a simple song. Written by an American while in France, set to the music of an old Sicilian air, and first sung at Covent Gardens in London, it soon became and still is the world's most popular song. It was in truth the expression of Payne's concentrated longings for a place of peace and rest such as all mankind has always loved.

Payne describes the song in the play as follows: Just after the heroine sings the song, her maid asks: "Bless me, ma'am, what a pretty song that was! Where might you have learned that song, ma'am?"

To this the heorine replied: "Where I learned other lessons I ought never to have forgotten. It is the song of my native village, the hymn of the lowly heart which dwells upon every lip there, and, like a spellword, brings back to its home the affection which e'er has been betrayed to wander from it. It is the first music heard by infancy in its cradle; and all cottagers, blending it with all their earliest and tenderest recollections, never cease to feel its magic till they cease to live."

To speak worthily of John Howard Payne and his song, one should know all about the science of music. Not knowing one note from another, I cannot analyze this song. Like most other people, all I know about music is what I like, even if I can't tell why.

Music is the invention of man, by which common air is changed to melody. Music lifts our lives above the humdrum of daily tasks, gives wings to thoughts, opens the golden gate to the heart, and frees the soul to rove the world of memories, dreams, and hopes.

Somebody has said there are three kinds of music. First is the music of simple time; it is music of the heels; we call it "jazz." Second is the music of varied time, the fast and slow, like our motions; that is the music of the heart; we call it popular music. Third is the music that involves emphasis and something more; it produces not only states of feeling but states of thought; this is the music of the brain; we call it classical music.

Payne's Home, Sweet Home had a little of all three kinds of music in it, but it is primarily music of the heart. When this music of the heart was combined with the memories, dreams, and hopes of all the human family that center about the place we call "home", there was created a song that will live as long as men and women teach the songs they love to their posterity.

It is a striking fact that, having left home when a boy of 15 and never having married, Payne never experienced the joys and sorrows of a real home, yet he wrote the most popular song about home the world has ever known. His travels, his associations, and his own heart's longings all taught him to believe that the love of home is the most universal love on earth.

Payne was right. Those who have studied the subject of languages tell us that in all the 835 languages which have been discovered no language has ever been found that did not have a word for God and a word for home. Some languages have had no word for love, some no word for hate, and some no word for liberty. But no people have ever been able to communicate their thoughts without some word to express their idea of a divine power and some word to express their love of home.

History tells us that in the days of this song's greatest popularity practically every English-speaking person in the world could hum the tune. Choirs sang it in churches, mothers in their homes, travelers along the road, and soldiers at the front.

Somebody has said, "It placed a sermon on every lip, a prayer in every heart. Nothing ever written, outside the Bible, had a wider influence for good."

"Mid pleasures and palaces though we may roam,
Be it ever so humble, there's no place like home."

There's always love in a happy home. There's always hope in a happy home. Each depends upon the other, and both are within the reach of all the poor.

Modern science and invention make it possible to equip modern homes so they provide so much more of pleasure than in the past. We have electricity. Electricity is the magic master of darkness and distance, of heat and cold, of back-breaking toil and lonely ignorance. By the use of electric devices we can make the modern home a paradise for rest and joy, such as those who lived in the ages gone could not even conceive.

The greatest problem of our time here in America is the abolition of poverty and the prevention of profiteering in the sale of electricity so that the millions of plain people can own their own homes and make use of electricity for their own happiness.

Of food and clothing and shelter we can easily produce more than we can use. Our most pressing need, therefore, is an economic and industrial plan whereby each may secure his share of the good things of life. Then and not till then will Payne's song tell of homes of joy and peace for all our people everywhere.

This place of privacy and peace which we call home is as old as history. Whether men and women have made their homes in the cliffs or in the mountains or in caves underground; whether in igloos of ice or tepees of poles and skins; whether in log cabins, shacks, or cottages; whether in tenements, apartments, or palaces, their homes have ever been the refuge, the haven, the altar of their lives.

A home may be grand or humble, but there is no other place just like it or just as good. Storms may damage it, sickness, hunger, and death may stalk through it, but only to make it more beloved. It satisfies our dreams. It quiets our longings. It gives us rest.

That is why the love of home is invulnerable. That is why the love of home is immortal. That is why Payne's song can never die.

THE N.R.A. AND SOCIAL JUSTICE—ADDRESS BY MONSIGNOR WILLIAM J. KERBY

Mr. MURPHY. Mr. President, I ask unanimous consent to have inserted in the RECORD an address delivered last night over the Columbia Broadcasting System by Rt. Rev. Monsignor William J. Kerby, professor of sociology at the Catholic University of America, on The N.R.A. and Social Justice.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I have been asked by your committee to suggest within the limits of 15 minutes some kind of contrast between what may be laconically called the "old deal" and the "new deal." The phrase "old deal" may be taken to indicate the background of the present condition. It refers to the basic principles upon which the social system rested, the conditions that resulted under it, the disappointments that followed, and the hitherto uncertain efforts at reform. The new deal reminds us of the almost universal distress from which we have suffered of the practical policies that have been adopted in our national emergency and of the objectives that have prompted new efforts to save real democracy for the Nation.

It is, of course, out of the question to take up details. One can do little other than suggest elementary concepts. The distinguished speaker who follows will deal more concretely with the actual situation.

The old deal, out of which we are emerging, did not aim directly at social justice. It did aim at the removal of historical obstacles to personal freedom and opportunity. Our democracy developed largely in this way. The Bill of Rights with which we are familiar was a glorious achievement. They were guaranties to the individual around which political constitutions were organized in relation to less complex historical conditions. To borrow a happy statement from an American thinker, Roscoe Pound, I believe, society endeavored to guarantee abstract liberty to abstract persons in abstract conditions. The inequalities among men, women, and children that are due to nature, training, opportunity, and social conditions were disregarded. Action by the State was reduced to a minimum. Trust in the moral, spiritual, and social forces of life led men to expect that these forces would supplement the power of the State in the maintenance of the social order and the service of social justice. The belief prevailed, I think, that democracy was primarily social, moral, and spiritual, and, secondarily, political. It was thought that a maximum of social order would be achieved by a minimum of legal coercion through law and by the free play of moral and social forces due to intelligent good will, personal idealism, and true social values. These forces were expected to have a major role in realizing the common aspirations of humanity.

A system of private property had been devised that guaranteed no property to anyone, that placed no limits on the property that one might accumulate. It promised to protect property legally acquired. It did not guarantee that anyone would acquire property, although it did forbid undue methods in hindering one from acquisition or, perhaps, the opportunity for it.

The old deal included a system of competition which corroborated the deepest impulses of selfishness. Unequals competed for a living. Reasonable participation in the blessings of normal life was conditioned on income, and income was determined by capacity in the competitive struggle. The prizes of life went to the strong and the penalties of the social system were assembled on the bent shoulders of the weak. Moral, spiritual, and social forces were unequal to their colossal task. All forms of economic strength were like-minded and they were gradually consolidated. The social result of this consolidation created an economic order within the political and social order that defeated the larger aspirations of true democracy. The philosophy of strength was in large measure triumphant. They who had been the victors in the competitive struggle developed a working philosophy of selfishness and lived by its compelling direction. They adjusted in large measure their views of religion, of morality, of personal responsibility, of education, and of the state in a way that paid ready homage to economic superiority, and they were little impressed by the wider and more gentle philosophy that would interpret the brotherhood of man in the terms of concrete living.

The inevitable happened. All forms of strength were assembled in the lives of the relatively few whose natural ability, acquired power, and social reenforcement encouraged them to aspire to the domination of the world. Neither public opinion nor deep concern for human life nor religious ideals nor moral interpretations succeeded in disciplining economic strength in relation to true human culture.

Industrial usurpation placed power in the hands of those whose authority, wishes, and interests were in conflict with the welfare of the industrial classes. Political usurpation enabled amalgamated capital to prevent the State from dealing promptly and effectively in the interest of the common welfare. The press that was theoretically free yielded to the influence of the powerful and we witnessed a journalistic usurpation that interferred with the development of a normal public opinion. The way was cleared for an economic domination that was surprisingly at variance with the aspirations of humanity for justice, reasonable security, and happiness.

By force of circumstances that developed and of aspirations for true democracy and for the opportunity to live normally, the weaker classes gradually discovered their only form of strength, that of numbers. They attempted to upbuild collective strength by the organization of labor and they found to their dismay that the individualistic State hampered them at every step in their search for justice. Their aspirations to live, to be happy, to enjoy normal home life, to take their dignified place in the composition of social life were baffled. The political constitution, the philosophy that shaped our laws and determined their execution in the maintenance of social order presented obstacle after obstacle that had to be overcome by painful and costly struggle. Whenever a grave social abuse clamored for remedy, economic strength with its inexhaustible resources made the enactment of relieving laws extremely difficult, when not impossible. When the weaker classes described the conditions under which they suffered, the stronger class denied the facts. When facts were established beyond dispute the stronger class challenged the interpretation of them.

When weakness, made strong, succeeded in reaching the halls of legislatures and bills were introduced the combat was transferred to the halls of legislatures and the vicissitudes of debate were met. When public opinion was won to the cause of the weak, laws that promised comfort were enacted. They still had to face courts who had the power as well as the duty to declare that they were unconstitutional or constitutional. Sometimes the courts were reasonably suspected of a discouraging bias in their decisions. When it was found that constitutions actually prevented remedial measures that were called for, the necessity of amending a constitution appeared. And the same weary struggle was undertaken with increased disadvantages at this point.

The theoretical political emancipation that had gladdened many hearts in the past was accompanied by an economic servitude against which the weaker classes rebelled. Thus the consciousness of contradiction between political emancipation and economic dependence became the very heart of the labor question.

Notwithstanding these heart-breaking difficulties, undeniable progress had been made. The moral, spiritual, and social forces of society were gradually enabled to make some of their expected contribution to a reasonable social order to which, in fact, the State had been unequal. The frequently unashamed influence of wealth and power was gradually diminished in the halls of legislatures. The welfare of the laboring class and of the poor had taken hold of the conscience of the world. Effective reforms followed and some touch of the vision of true democracy became much more effective as a working social force. The spurious sanctity of natural economic laws was diminished and the Christian democratic sanctities of human life gained respect slowly and were brought within the range of effective assertion throughout all social life.

There is no need to underrate the tremendous contribution made by the old deal to what we may call "human progress" for the moment. The old deal takes on an aspect of grandeur when we view it in an isolated way and recognize its tremendous one-sided achievements. But when we study the enormous concentration of power, on the one hand, and the baffled lives and otherwise useless struggles of the weak from the standpoint of a complete philosophy of social life and an ideal of true personal culture, the grandeur of economic achievement takes on a moral and social ugliness from which any gentle view of humanity recoils. One

cannot refuse to consider the alarming dependence of the masses, their inadequacy to meet the ordinary demands of worthy living, indifference to distress, baffled hope and defeated life, and perverted values that misdirected the genius of the world. And when one takes these things into account a normal man inspired by a normal social vision could not but be touched to tears.

One pathetic feature of this economic process should be mentioned. There were many among the strong who were high-minded, who honestly wished for better things, who would gladly share their advantages with those who had been less successful, but they had little choice. The tyranny of the economic system respected neither their nobility nor their worthy aspirations. It went its way with unrelenting step. We have been told many times that in a competing group the morals tend toward the lowest level in the group. The methods of unfair competition that became so significant were merely aspects of a ferocious struggle that had little in common with the ideals of human brotherhood.

The powerful man who incorporates into his working philosophy of life all of the assumptions, attitudes, standards, methods, and valuations that are actually incorporated in the old deal shows us in one detail the inevitable outcome of the social order under which we have suffered so grievously. What does the new deal say to such a man?

It tells him that life is more sacred than property and that the dignity of man is a social axiom that must be respected in the structure of any social system. Both democracy and Christianity hold that property is a stewardship for humanity rather than for greater accumulation. It tells him that the welfare of the weak is a first lien on the surplus strength of the powerful. It tells him that dividends in the form of health, leisure, security, happy home life, and cultural education are more honorable to him and more noble in themselves than are dividends in the terms of money. It tells him that the savagery of competition has no rights that one must respect and that only a chastened competition that respects the sanctities of life can contribute to the upbuilding of true civilization. Unfair and immoral forms of competition degrade the beneficiary of it no less than the victim.

The new deal tells such a representative of the old deal that the functions of the State must expand under the imperial orders of truth, morality, and justice, until the facts of historical democracy are corrected and life enters upon the pathway toward democracy in fact. To quote again the thinker whom I mentioned a moment ago, the new deal aspires to insure concrete liberty for concrete men, women, and children in concrete conditions. It tells us that this established social system that has disappointed us so deeply must be wrenched out of its settled adjustment and reconstructed into one that will take wise care of the weaker classes who must have protection. The new deal tells us that we have less occasion to fear codes, even planned production, State paternalism, and a diminishing return on capital than we have to fear economic slavery, broken health, constant worry, disrupted homes, massive poverty, and insecurity for millions of lives that know no peace.

I am not unmindful of the staggering task that the new deal has undertaken. Much of its difficulty is due to our inability to cope with colossal complicated social problems that concern social justice and social order. Normally a social system must grow gradually. Social changes are gravely disturbing. One cannot easily foresee the problems of readjustment involved in any social change. The new deal has labored under the terrific disadvantage of having to work in a hurry. It acquired the courage to do so because of the incredible collapse from which we have suffered and the insistent cries of the distressed as they looked to a new leadership for relief.

But I think our greatest problem lies in the stubborn personal philosophy of the beneficiaries of the old deal, a philosophy that must be regarded as an archaic survival when brought face to face with the facts of life, and when the ideals of life are looked upon with adequate reverence.

It was inevitable and it is perhaps providential that the new deal is creating new problems and meeting temporary set-backs in winning public opinion. There is in this situation a promise of practical wisdom and effective statesmanship that perhaps it had otherwise not achieved. Whatever the objectives of the new deal and whatever its difficulties, there is so much to commend it in the name of humanity that it deserves the confidence and the patience upon which its success depends. The new deal is asking the strength of the world to be more thoughtful of the weakness of the world. For in the Christian dispensation strength is sanctified by serving weakness, and the growth of civilization depends upon the impersonal generosities of surplus strength as we grope toward the high goal of social life. Little as we may like it, we must ask the State to do more in a positive way for social justice than we have asked it to do in the past. And we must call the moral, spiritual, and social forces to their appointed task in conjunction with the State as we undertake the duties that the evident plans of God impose upon us.

We must seek to humanize competition, to outlaw by prompt action all unfair methods of competition and thus to preserve its contribution to our common welfare with enlightened determination. We must aim to inject fundamental moral principles into economic processes and to return to a cultural concept of the deep relations of all social interests around a scale of true values that has the high sanction of God.

SEATTLE CITY LIGHT AND POWER

Mr. NORRIS. Mr. President, I hold in my hand a copy of the magazine Public Ownership of Public Utilities, in the May edition of which appears an article written by Mr. J. D. Ross, one of the eminent engineers of the country, giving a history of the Seattle municipal power plant. I ask unanimous consent that the article be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Public Ownership of Public Utilities, May 1934]

SEATTLE CITY LIGHT AND POWER—A $60,000,000 PROJECT; 92,000 CUSTOMERS; $11,000,000 SURPLUS IN 30 YEARS; RATES REDUCED FROM 20 TO 5½ CENTS PER KILOWATT-HOUR; AVERAGE, 2.8 CENTS; SAVING CUSTOMERS $8,600,000 ANNUALLY

(By J. D. Ross, LL.D., Fellow American Institute Electrical Engineers, superintendent Seattle Municipal Light and Power System)

Thirty years ago the people of Seattle were paying 20 cents per kilowatt-hour for electricity; today they pay 5½ cents per kilowatt-hour.

Thirty years ago the city owned nothing in the way of electric light and power equipment; today the city owns a $54,000,000 power system.

Thirty years ago the city earned nothing on electric light and power; today the annual surplus earnings amount to $4,940,000.

Due to the repeated reduction in rates the people of Seattle pay on the average 2.8 cents per kilowatt-hour, which is just one-half the national average.

The total annual savings to the people of Seattle, due to the lower rates paid for electric service as compared to the average paid throughout the Nation, amounts to $8,600,000, a sum over a million dollars greater than the entire tax levy of the city.

With a public power system comprising four water-power plants aggregating 130,000 horsepower, and a steam plant of 50,000 horsepower, making a total of 180,000 horsepower capacity, already developed, the city is going forward with additional huge hydroelectric developments which, when completed, will bring the total capacity of this single municipal system up to 1,120,000 horsepower—one of the two largest municipal light and power projects on the continent.

The estimated cost of the ultimate development of this 1,120,000 horsepower is $74,500,000 with transmission lines, or $66.65 per horsepower delivered, which will be the cheapest unit cost of any large hydroelectric development in America.

In Diablo power house, to be built on the Skagit River, two monster turbines are to be installed, of 95,000 horsepower capacity each, which are the largest turbines ever built in the world—larger than those of the great Russian plant on the Dnieper River, which are rated as 83,000 horsepower; and much larger than those of the Queenston plant of the Ontario system, which are rated at 65,000 horsepower.

THE PRESENT LIGHT AND POWER SYSTEM

City light customers are supplied with current from 4 water-power plants aggregating 130,000 horsepower and a steam plant of 50,000 horsepower, in addition to the interconnection with the city of Tacoma, which has 3 water plants and 2 steam plants. The Seattle generating plants are (1) Cedar Falls station, 40,000 kilowatts; (2) Gorge plant of the Skagit River development, 54,000 kilowatts; (3) Lake Union water auxiliary plant, 1,500 kilowatts, and the Newhalem plant, 2,500 kilowatts; and (4) Lake Union steam plant, 30,000 kilowatts, giving a total rated capacity in water power of 98,000 kilowatts (130,000 horsepower) and in steam of 30,000 kilowatts (40,000 horsepower) with an overload capacity in steam of 50,000 horsepower.

DESCRIPTION OF PLANTS

The Cedar Falls generating station is located 40 miles southeast of Seattle. This was the first source of power and was started in 1903. The waters of Cedar Lake were raised from the original elevation of 1,530 feet above sea level to 1,548 feet by means of a timber-crib dam, rock filled, across the Cedar River at the lake outlet. From the dam a 49-inch wood-stave pipe line was built along the river bank downstream about 15,000 feet, where it joined onto a 48-inch steel pipe which carried the water 1,008 feet down the slope to the power house. This plant was completed in 1904 and began serving the city early in 1905.

In 1907 work was begun on a second unit at Cedar Falls, and an installation of two Westinghouse generators were installed rated at 8,000 horsepower under a 600-foot head at 600 revolutions per minute. These were the highest head reaction turbines then in existence. Later a second transmission line was built from the Cedar Falls plant with other equipment. The installed capacity at Cedar Falls is now 40,000 kilowatts, and the plant is operated on a comparatively low load factor, so as to save its full capacity for use on the system peak.

LAKE UNION WATER AND STEAM PLANTS

A second source of power for the Seattle system was the Lake Union water-power auxiliary. Here a Westinghouse-Pelton reaction turbine was installed, rated at 1,500 kilowatts on a 420-foot head at 720 revolutions per minute. This unit is housed in a reinforced-concrete building on the east shore of Lake Union, and

was placed in service in 1912 as an auxiliary or emergency source of power to supplement the Cedar Falls plant.

STEAM STAND-BY PLANT

At Lake Union the city has also established a steam stand-by plant very near the geographic center of the city. It is a reinforced-concrete building of modern design containing three steam turbogenerators of Allis-Chalmers-Parsons make. These units are supplied with steam by 14 Sterling boilers rated at 823 boiler horsepower each, 4 at 200 pounds, and 10 at 250-pound pressure, all operating at 125 degrees superheat. They are equipped with oil-burning furnaces with settings designed to change to coal burning with little cost.

This steam plant is designed primarily as a stand-by or peak-load plant, with emphasis on reliability and quick starting. The capacity of the Lake Union plant is 30,000 kilowatts or 40,000 horsepower with an overload capacity of 50,000 horsepower.

EARLY HISTORY OF THE SEATTLE SYSTEM

The citizens of Seattle from the beginning of the city have been favorably inclined to municipal ownership of public utilities and especially that of lighting.

Back in 1902 an ordinance was passed by the city authorizing the issue of $590,000 in bonds for the construction of a generating station on the Cedar River. This was the first municipal water-power station in America. The plant was put in operation on October 14, 1904, with R. H. Thompson as city engineer and J. D. Ross as electrical engineer. The transmission line to Seattle, 37 miles long, and built for 45,000 volts, was the highest transmission pressure in the world at that time. It was placed in service and the street-lighting circuits were taken over from the private company and served by the municipal plant in January 1905.

The support given the municipal plant by Seattle citizens was so enthusiastic that it became necessary to plan extensions almost as soon as the service began. There followed the gradual development of the system into the four units or plants above described. As the city lighting business developed, the necessity of a separate department became evident, and in 1910 a charter amendment was adopted creating the department of lighting separate and distinct from the water department. The first superintendent was R. M. Arms who resigned in March 1911 and was succeeded by J. D. Ross, who had been electrical engineer in charge of the design and construction of the plant from its beginning. From that time on down to the present Mr. Ross has been in charge as superintendent and chief engineer of the Seattle system.

THE GREAT SKAGIT RIVER DEVELOPMENT

With a rapid development of industry in Seattle incident to the World War, increased generating capacity became an acute necessity. The Lake Union water auxiliary and steam plants mentioned above were rushed to completion. But still the demand for additional current and service grew.

The light department recognized that in the richest water-power district of the Nation, with millions of horsepower running to waste within transmission distance of Seattle, the logical source of energy to meet the growing demand would be from falling water. Investigations were made of every possible water site within 150 miles of Seattle, and in 1912 the citizens authorized the purchase of two sites, one being the Lake Cushman site, which was later developed by the city of Tacoma. The opposition of the private company delayed proceedings, blocked the city in its hydroelectric development in 1917, and resulted in the loss of the Cushman site. The city then turned its attention to the possibilities of development on the Skagit River.

The Skagit River has long been recognized as the most favorable for large development in the Northwest. This site lies wholly within the Mount Baker National Forest but was held by the private power company under a temporary permit from the Federal Government. This permit was held by the company on condition that certain developments would be made within a limited time, and because of failure to make this development Superintendent Ross made application for the site in July 1917 and pointed out to the Government at Washington that the Stone and Webster interests were buying up other sites while attempting to hold the Skagit without developing it.

Mr. Ross went to Washington to present the city's claim directly to David F. Houston, then Secretary of Agriculture, who had jurisdiction over the forest reserves under the law. On January 18, 1918, the city was given permission by the Government to call for bonds on a plant to be built on the Skagit River, and the city's priority rights were protected until May 1918, pending the acceptance of the application for a preliminary permit. The city made good on its development plans and thus acquired the rights to the development of the power sites on the Skagit River. By the purchase of other power sites in the attempt to block the city, Stone and Webster had indicated their intention to develop power elsewhere, and since no actual construction work had been done on the Skagit and the company was behind in payments to the Federal Government under the Water Power Act, the Skagit was officially taken from Stone and Webster and given to the city.

THE SKAGIT PLANTS

The city began work at once upon the development of its plants on the Skagit River. The Gorge power house was officially placed in service on September 27, 1924. A rather spectacular phase of this occasion was the fact that President Coolidge started these generators by means of a special wire connection from the White House in Washington, D.C. From 1924 on the energy developed by the department continued to increase at such rate as to double every 5 years. The Gorge power house is located on the Skagit River 2 miles above Rockport, Wash., and 100 miles by transmission line northeast of Seattle.

In the course of the development of this Gorge plant and plans for further development of the Skagit River later, the city constructed a standard-gage railroad 26 miles long from Rockport to the Gorge intake. This line was later extended 4½ miles to Diablo Canyon in 1927 for the construction of that unit.

THE GREAT DIABLO PLANT

The second unit to be developed in this great municipal system was the Diablo plant, which was begun in 1927 and finished in 1930. This plant lies some 7 miles upstream from the Gorge power house and is one of the great municipal undertakings of the country. The dam was an arch structure, in Diablo Canyon, 389 feet high, 1,180 feet long on the crest, and 140 feet thick at the base. A power tunnel 19 feet 6 inches inside diameter and 2,000 feet long, through solid granite, with differential type surge tank and two steel penstocks 15 feet in diameter and 500 feet long, carried water to the Diablo power house located on Reflector Bar, about 7 miles upstream from the Gorge power house.

It is for this power house of the Diablo plant that the two largest turbine units in the world have been built, each unit having a capacity of 95,000 horsepower.

The total development by the Seattle municipal plant will, it is assumed, amount to 1,120,000 horsepower in the Skagit plants. The Gorge plant already described will develop 320,000 horsepower, the Diablo plant an additional 320,000 horsepower, and the contemplated development later on at Ruby Dam will add another 450,000 horsepower. This latter development is located in the Skagit Canyon about 6 miles upstream from the Diablo plant. Each of the upper two plants deliver the water into the reservoir for the plant below, so that in this way the water is used three times.

RUBY DEVELOPMENT THE NEXT STEP

Beyond the present two plants built and in operation at the Gorge and Diablo, the city is planning a third and still larger development, in fact, the largest of all, at Ruby Creek. This latter development will be the key to the entire system. The Ruby Dam is necessary to equalize the flow of the stream and conserve flood waters until they are needed for power. Without the Ruby Dam the output of the Skagit is limited to the flow of the river, and in extremely dry seasons the present Gorge and Diablo installations will have more capacity than the flow will carry. With Ruby Dam each of these plants may be increased to 320,000 horsepower, and 480,000 horsepower may be installed at Ruby. The 75,000 horsepower Gorge plant represents an investment of about $200 per horsepower. The entire project when completed will produce 1,120,000 horsepower at a cost of $67 per horsepower, which is lower than the cost of any large project yet built or proposed.

It is planned to raise the crest of the Ruby Dam at least 15 feet higher than is required for power purposes in order to use the additional storage capacity to control flood waters for the protection of the valley below.

FEDERAL AID FAILS SEATTLE

At the time the city was undertaking the development at the Diablo Dam and planning for the additional construction of the Ruby Dam the present financial depression came on, making it very difficult for the city to finance the project. About that time the Federal Government announced its plan to aid municipalities by the extension of loans and grants to self-liquidating projects and especially those that would aid in reemploying the unemployed. Application was, therefore, made to the R.F.C. for loans and grants amounting to $25,792,000 for the completion of the Diablo plant, the construction of an additional transmission line to Seattle, and for the Ruby Dam and Reservoir work.

Mr. Ross went personally to Washington and spent several months there in the preparation and presentation of the application of the city for this loan, pointing out that there was over $1,750,000 worth of machinery ready for installation that could not be utilized for the lack of money; that if the Federal loan were granted over 2,000 men could be put to work at once and indirectly many thousands of others in clearing of the reservoir site as well as in construction work; that the loan would have the very best of security due to the fact that the city system had some 92,000 regular customers and a steadily increasing demand and the financial conditions of the city were in the very best of shape. And yet, in spite of all of these considerations, the Federal Government finally turned down the application of the city for a loan, giving as the reason that too much money had already been allocated to the State of Washington. Some $60,000,000 had been allocated for the construction of the public power system at the Grand Coulee site on the Columbia River and some $30,000,000 more for the Bonneville project, although the latter was really a purely Oregon venture.

Failing to secure the promised assistance from the Federal Government in the matter of financing the Diablo and Ruby projects, the city was compelled to turn again to private financing agencies, and due to the especially favorable conditions the city, under date of April 12, secured a loan of $4,500,000 on good terms, which enables it to take up its warrants and finish the Diablo power house, build the city lighting building, and leave a half million for city extensions. With these resources the city will now be able to go forward with its development as indicated and later will undoubtedly complete the system.

FINANCIAL OPERATIONS

The financial results and operations of the Seattle municipal light and power system have been very satisfactory from the be-

ginning. At the end of 1932 the fixed assets of the department of lighting, after deducting $10,161,993 accrued depreciation, stand at $43,871,786. Against this value, the outstanding debt, all in the form of bonds, is $32,153,000. The difference between these two figures, over $11,700,000, represents a contribution to the city as a whole made by its department of lighting during the career of the plant.

The entire investment in city light, approximately $54,000,000, has been made without costing the taxpayers a single cent.

The total operating revenue of the system for the year ending December 31, 1932, was $5,261,643. The total operating expenses were $3,123,037; and after interest charges are paid, amortization, city taxes, etc., the net annual income was $594,939.68.

During 1933 operating expenses were rigidly reduced some 48 percent. The department has maintained a cash balance in its operating fund of from $55,000 to $199,000, so that the employees are saved the inconvenience and expense suffered by those of some other departments of having to depend upon banks to cash their pay checks. All city light bills are paid promptly when due, and bond interest and redemption charges for 1933 amounted to $2,761,977. And, besides, while keeping its own funds on a cash basis the city light system has taken in and cashed over $400,000 worth of warrants drawn against the city general fund, the municipal street-railway fund, and various other county and city funds. These warrants will require from 6 weeks to 2 years to mature and they add materially to the burden carried by the lighting department because interest and redemption payments must be met in cash.

NOT A SINGLE EMPLOYEE LAID OFF

The city is especially proud of the fact that by rotating work during the period of the depression it has been able to maintain its personnel without laying off a single employee. When the depression came on it was evident that expenses must be cut but it was determined not to cut anyone off the pay roll unless they were able to find employment elsewhere. This was to prevent swelling the ranks of the unemployed who must be cared for by the taxpayers' money.

The work in each division has been rotated among the men. Pole crews are now working 1 week out of 3. Line crews are working approximately half time, while maintenance men are working three-fourths time and the operating force and office workers are on a 5-day, 40-hour week.

THE CITY PAYS TAXES

Opponents of municipal ownership have made much of the argument that public plants do not pay taxes. For the last half of 1932 the Seattle municipal light plant paid $65,066 as a direct tax to the city. The real answer to the tax argument, however, is that city light is furnishing efficient electric service to Seattle at rates that save consumers more than they pay in city taxes, and at the same time is carrying all its obligations and paying off its bonded debt progressively as the bonds become due.

LOW RATES—AVERAGE 2.8 CENTS

The above splendid financial results of the operating of the municipal plant and power system of Seattle are accomplished on the basis of extremely low rates.

Before the city light was started, in 1902, consumers were paying 20 cents per kilowatt-hour for current. When it became evident that the city was actually going to build a municipal plant the private companies reduced their rates to 12 cents per kilowatt-hour. In 1905 the city reduced the residence rates as follows: 8½ cents for the first 20 kilowatt-hours; 7½ cents for the second 20 kilowatt-hours; 6½ cents for the third 20 kilowatt-hours; 4½ cents for all over 60 kilowatt-hours per month.

Some weeks later the private corporations reduced their rates to 10 cents for the first 20 kilowatt-hours; 9 cents for the second 20 kilowatt-hours; 8 cents for the third 20 kilowatt-hours; 5 cents for all over 60 kilowatt-hours per month, with a 10 percent discount for prompt payment, making the company's rate approximately one-half cent higher than the city rate. Early in 1911, when the municipal plant had become a serious competitor, the company reduced this differential and made its rates the same as the city rates.

In 1911 the city reduced its rates slightly and the company made a reduction a few months later. Some other slight changes were made, but since June 1, 1933, the residence rates have been as follows: 5½ cents for the first 40 kilowatt-hours; 2 cents for the next 200 kilowatt-hours; 1 cent for all over 240 kilowatt-hours.

The complete rate schedule for all classes of business is published in the annual reports of the system and cover six printed pages; and are, of course, too elaborate for reproduction here.

It is interesting to note that every reduction in rates that has been made by the municipal plant has been followed by its competitor.

The average rate for current in Seattle shows a steady downward trend; and as bond redemption reduces interest charges, and as further development on the Skagit lowers the unit cost per horsepower, rates can be made much lower. As it stands now, the average rate for domestic service in Seattle is 2.8 cents, whereas the average rate for such service in the United States as a whole in 1932 was 5.6 cents, or just twice as much.

The city customers in Seattle used $5,261,643 worth of current during 1932. The customers of the private company in Seattle paid approximately $3,700,000 for current at rates that are controlled by the city's competition. Electricity which cost Seattle's consumers $8,961,000 would have cost just twice as much at the average rate obtaining in the country at large. The total saving to the people of Seattle as a result of these low rates is approximately $8,600,000 per year, a sum over a million dollars greater than the entire tax levy for the city.

COOKING BY ELECTRICITY

As a result of the especially low rates offered for domestic service cooking by electricity has become very general in Seattle. There are now more than 40,000 electric ranges in the city, of which city light serves 26,416. There are more electric ranges in Seattle than in any other city in the world.

STREET LIGHTING AT 2.2 CENTS

The general fund paid the lighting department for street lighting in 1933 is $438,750, which is at the rate of 2.2 cents per kilowatt-hour. The average charge for this service in similar cities is approximately 5 cents per kilowatt-hour. For instance, in San Francisco the city pays $780,000 for 20,000 lamps, or approximately two and one-fourth times as much per lamp as Seattle.

For the year 1934, the cost of street lighting has been cut to $375,000, or only 1.88 cents per kilowatt-hour, for all current and maintenance replacement and operation.

Not only has the municipal plant helped in keeping the unemployed at work, paid taxes to the city and made other savings, as indicated above; it has also assisted the poor and unfortunate. When it became clear that a considerable number of the city customers would not be able to pay for electric service the city recommended that relief agencies recognize the need of electricity in the home and agreed to furnish the service at a flat rate of 2 cents per kilowatt-hour, which in the case of many consumers is less than cost of serving. At the end of the year 4,180 customers were being served under this arrangement.

OVER ELEVEN MILLIONS PROFIT

With rates low, as indicated above, and services rendered, the Seattle municipal plant has shown a revenue balance of profit above all operating expenses, including liberal depreciation charge and bond issue, for each year since 1906. Its yearly income has increased each year through good times and bad at an average rate of 15.8 percent per annum. During the 28 years ending with 1932 the light department has taken in as revenue from sales of current $63,693,623, of which $11,470,493 is profit. From its surpluses and reserves the plant has returned more than $22,000,000 into plant extensions and bond redemption. At the end of 1932 the plant represents fixed assets of $54,033,779, against which $32,153,000 in bonds is outstanding. And this record has been made while serving all classes of consumers at rates that have been reduced again and again.

OTHER INTERESTING FEATURES OF THE SYSTEM

Among the interesting features of the Seattle municipal system may be mentioned the following:

The city very early changed the current from direct to alternating for all lighting purposes, using direct current for elevators only.

The distributing system has been very thoroughly developed and the city has followed a definite program for placing all electric wires underground within the business district. All poles have been removed in these sections.

In addition to metallic circuit telephone lines paralleling each transmission line the city has built and extended a system of dispatching telephones serving each substation in the city. The telephone line from Seattle to the Skagit, 107 miles, is also supplemented by a radiotelephone set designed and built especially for the department. This set is of the long-wave broadcasting type, not depending on the transmission wires, and is equipped with automatic ringing, so that the act of lifting the receiver starts the apparatus and sends the call to the distant station.

SPECIAL STREET LIGHTING

The street-lighting system consists of the most expensive, decorative white-way lighting system in the country. The new ornamental posts are of cast bronze, each carrying two or three 500-watt, 950-candlepower lamps. The city used from the first metal-filament incandescent lamps and was the first to use gas-filled lamps and to discard the old arc lights. There are more than 64 miles of streets improved with this special class of lighting.

SHOPS, STOREROOM, ETC.

The lighting department maintains a modern warehouse and shops housed in a reinforced-concrete building, with 3½ acres of floor space. The warehouse is equipped with material-handling facilities, steel bins, and shelves, and arranged for the economical storing and handling of the vast variety of material and supplies used in the plant's construction and maintenance work. A railway spur ends in the craneway running through the center of the building and the shops are equipped for machine work, coil winding, carpenter work, welding, forging, and the many operations necessary for the repair and maintenance of the equipment.

TACOMA INTERCONNECTION

The Seattle municipal plant is connected with the Tacoma municipal system through a 60,000-volt, 33-mile transmission line. This tie line has been of great value to both cities, giving the reliability of service and economy of operation only possible when a wide diversity of power sources is connected to a single system. The surplus at Skagit is used to carry part of the summer load of both systems, while Lake Cushman (of the Tacoma system) fills up and the current is returned in the winter when the loads are heavy and the Skagit is lower. The electric interconnection on the two sites presents a striking example of the benefits of cooperation and has done much to replace the ancient spirit of rivalry between them with one of harmony and mutual help.

DO THEY EARN THEIR PAY?—ARTICLE BY ROBERT EICHBERG

Mr. DILL. Mr. President, I ask unanimous consent to have printed in the RECORD an article appearing in the publication Radio Stars entitled "Do They Earn Their Pay?" by Robert Eichberg.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Every penny the sponsors spend on radio programs, and the cost runs into millions of dollars a year, must come back and show a profit. Yet stars are hired at salaries which are stated to range from $1,000 to $7,500 for a single broadcast, and time on a major network costs as high as $15,000 an hour. Add these together, then add the cost of an orchestra and other artists in the show. Put the broadcast on two networks instead of one, and it can run into as much as $50,000 a performance, more than it costs to stage many Broadway shows for an entire run.

How can the sponsors afford it? Salaries paid radio artists are said to be $100,000 a year for "Amos 'n' Andy", $3,500 a performance for Rudy Vallee, $7,500 each for Eddie Cantor, Ed Wynn, and Will Rogers, $5,000 for Al Jolson, and equally astounding fees for other stars.

Surely these entertainers must be supersalesmen of the air if their broadcasts are to pay for themselves. Of course, they make us listeners more familiar with the names of the products they advertise, but do they bring new customers into the sponsors' retail outlets?

Let's look at some confidential figures and find out. Here, for example, is Ed Wynn, who heads a show on 54 stations of the red network at 9:30 E.D.S.T. Tuesday nights. Wynn is said to get $7,500 for his appearance, to which must be added the fees paid to Graham McNamee, the Fire Chief Band, Don Vorhees, and the male quartet. Then, on top of that add about $7,700, the cost of time on the network for one-half hour. Texaco has to sell quite a few gallons of gasoline to write off the weekly cost of that show which runs into about $20,000.

Well, what results do they get?

Remember the silly little fireman's hat Wynn wears when he poses for publicity pictures? That "kady" gives the key to an analysis of Texaco gas sales which are directly attributable to Wynn's broadcast, for during his program it was announced that you could get a copy of the foolish fedora by going to any Texaco filling station and asking for it.

Optimistically the sponsors ordered 1,000,000 hats for sale to their dealers. Bango! In a few days the hats were all gone, and they ordered that many more to satisfy the demand; 2,000,000 hats, surely that was enough. But was it? Not on your life. They had to buy 1,000,000 more.

Three million—count 'em, 3,000,000—hats costing the service stations 7 cents each were demanded by auto-owning, gasoline-buying radio listeners. And each hat given away meant a sale of Fire Chief gas, many to new customers at least some of whom, it is hoped, remain users.

Ed Wynn himself says, "I spent 29 years plugging the name 'The Perfect Fool.' Now, in a few short weeks, it's of no use. I am now 'The Fire Chief' and not even my best friends will call me anything else."

Why, he is so popular that when ex-President Hoover overlapped Wynn's time with a campaign talk in one of the hottest political battles in the history of the United States, some 6,000 people telephoned the network and complained about it.

That'll do for the Chief. Let's look back a year of two at the Stebbins Boys, who, as aerial representatives of Swift & Co., put on a sketch in which they were supposed to be editors of a small-town newspaper. On three nights they announced that anyone writing to them would be given a free copy of the paper.

Then the fun began. The first day there were only about 2,000 letters and everybody was disappointed. The next day 28,000 were received and the third day an additional 35,000. Then came the week-end, and Monday found 157,000 more letters from subscribers until finally at the end of a week their paper had a circulation of nearly 350,000 which is bigger than that of most newspapers in the large cities, or of the national magazines.

John and Esley Stebbins, in case you have forgotten, were the characters played by Arthur Allen and Parker Fennelly, both veterans of the legitimate stage. Allen jumped from stock to Broadway where he played character parts; Fennelly played Hamlet on the road, touring and playing New York alternately for some 15 years. Their radio acting, however, won them more fame on the legitimate stage than did all the years they trod the boards, for the acme was reached when the curtain line of a melodramic hit was, "Now, my dear sir, you may go home to your radio and listen to the Stebbins Boys."

Was Swift & Co.'s advertising manager pleased with their work? He said, "In 8 weeks they made Brookfield Butter over 50 percent better known in 28 major cities."

That's a bold comment, but now let's see some figures on a proved check-up of directly traceable sales as made by that pair of supersalesmen, Freeman Gosden and Charles J. Correll, better known as "Amos 'n' Andy"—so much better, in fact, that I could not recall their real names. When I phoned N.B.C., neither could the man who answered the phone in the press department; he had to look them up.

But you can bet the Pepsodent people know those names, know them with a touch of awe and reverence, for they sold 2,000,000 tubes of tooth paste through a single brief campaign. Before and after the darky dialogue sketch, the announcer said that any listener sending in two cartons in which Pepsodent tooth paste was packed would be given a free bottle of mouth wash. The announcement was continued for a limited time or until 1,000,000 bottles of mouth wash had been requested. These requests were accompanied by cartons representing $500,000 worth of tooth paste.

In a recent magazine article a writer "kids" radio advertisers who say that your purchases of a product make their programs possible, urge you to continue buying. The effectiveness of such appeal was demonstrated by another Pepsodent show, The Rise of the Goldbergs.

You may recall when an announcement was once made during their program to the effect that "Although this program is presented for your entertainment, we cannot continue it unless it is making new users for Pepsodent tooth paste and antiseptic. If you want it continued, write us a note on the back of a Pepsodent carton." As an added inducement a bathroom tumbler was offered to all carton senders.

The Goldbergs are still on the air. The sponsors counted 820,000 cartons, and decided it was well worth continuing, for that represented nearly $250,000 worth of business.

Incidentally, Harlow P. Roberts, advertising manager of Pepsodent says that about 90 percent of the Goldbergs' listeners are Gentiles and it is true that a great majority of the 820,000 appeals for their retention came from Gentiles, although the Goldberg sketches deal with the doings of an extremely Jewish family.

Again, "Amos 'n' Andy" offered to swap photos of themselves for Pepsodent cartons and got 75,000 takers in the first week.

Add it up. Right here we have a total of 2,895,000 cartons, not letters, but cartons, each representing a 25-cent sale, sent in by listeners replying to only three ideas. Do a little multiplication and then decide whether or not the Pepsodent programs earn their pay.

Then take the Kraft Musical Revue which featured Al Jolson and Paul Whiteman in a presentation running for 2 hours in New York and 1 hour in New England. We are told that each of these stars rates $5,000 a show and, with the station time and all, it cost Miracle Whip Salad Dressing a pretty penny. Well, was it worth the money?

Let John H. Platt, Kraft's advertising manager, tell you, as he told Sales Management, "Inside of 3 weeks from the first announcement, 85 percent of the distributors in the territory stocked Miracle Whip. In 6 weeks it was in first place in sales throughout New York and New England." True, newspapers and other media were used in this campaign, but radio gets a big share of the credit.

Ireene Wicker—that's not a mistake in her first name, a numerologist told her to spell it that way—is one of radio's best saleswomen. As "Kellogg's Singing Lady", heard over the blue network late every afternoon except Saturday and Sunday, she has been directly responsible for 38 women getting steady jobs. No, Ireene didn't hire them, but their work is to take care of her fan mail, and it keeps them mighty busy. You see, the Singing Lady offered to send her songbook to people mailing her tops from Kellogg packages, and about 14,000 a day take advantage of the offer. So Ireene is responsible for nearly 100,000 sales of Kellogg products every week.

Cities Service spends about $300,000 a year on broadcasting and has been on N.B.C. over 7 years. Its program features Jessica Dragonette. Now, $300,000 is a lot of money, but through radio broadcast advertising in 1 month they sold over 20,000 shares of common stock and one order for 50,000 barrels of oil. Down in Dallas, Tex., a salesman closed a contract for 9,000 gallons of Koolmotor gasoline, monthly, as a result of radio; these are only a few examples. So, you see, they get their $300,000 back.

The Carnation Milk Co. put on a contest for a slogan during their weekly half hour over 37 N.B.C. stations, and, during the 13 weeks the contest lasted, received 659,270 slogans, most of them written on labels taken from the cans.

Graham-Paige motor cars once put the Detroit Symphony Orchestra on the C.B.S. chain in a series of weekly half hours. A copy of a poem by Edgar A. Guest was offered anyone visiting the showrooms. About 50,000 people a week took advantage of the offer, and Graham-Paige had to increase their factory production schedules about 50 percent to meet the resulting demand for their cars.

Walter Winchell clicked big on the same network when he broadcast for La Gerardine, a hair lotion selling for one and two dollars a bottle in competition with other products, many at 10 cents. Before Winchell took the air, "Gerry" wasn't sold in drug stores. When he finished not only did they have complete distribution but also sales had increased 250 percent before the broadcast had been running 2 months. He's doing another grand job on Jergen's Lotion right now.

The networks always point with pride to sponsors who have been on the air continuously over a long period of time. "Would they", station officials ask, "have stayed on so long if their programs didn't pay?" To which we can only answer, "No one can fathom the mind of a radio sponsor. Let's see some figures."

In reply they trotted out a handsome set of statistics on the A. & P. Gypsies, whom Harry Horlick had on N.B.C. continuously since 1924, save for a 2 months' vacation in 1927. They've played 66 solid months on the air since 1927, which is a longer run than even Abie's Irish Rose. They're credited with increasing the chain stores' sales 173 percent.

And now to take a peek at an inexpensive broadcast. Ida Bailey Allen, as you know, broadcasts at a time of day when charges for time are low. Likewise, she appears under the joint sponsorship

of several trade-marked brands, which further reduces the cost for each of her sponsors.

One of them, who makes a product retailing for 15 cents, had 7,000 handy little kitchen appliances left over from a former premium stunt and asked Mrs. Allen to give them away over the air. So she offered one to anybody sending in 10 flaps torn from the product, thus proving actual sales of $1.50 for each request. Suddenly the advertiser found that all the appliances had been given away. Still package tops poured in, until more than 200,000 had been received. The cash return, as proved by package tops, was $304,500 from just that two-line announcement, which is quite a feather in the C.B.S. chapeau.

That network also made an exhaustive survey of the sales of various products—soaps, cigarettes, cleansers, etc.—to find the relation between their sales in centers where they were advertised on the air, as compared with places where no stations carried the programs, and to find out whether they were more popular in homes that had radios than in those which hadn't.

The results, far too long and complex to be given in this article, were overwhelmingly in favor of broadcasting.

Enough figures have been given, however, to prove conclusively that no matter how high a radio entertainer's salary is he brings a profit to the sponsor. So, a toast to the supersalesman of the air and to the advertising agents who are the brains of broadcasting.

And you, the next time you hear of the fabulous salary paid to some radio comedian, don't say to yourself, "Huh! I could be as funny as he is! Why can't I get into radio and make that much money?"

Just ask yourself if you could give away a dozen foolish little firemen's hats, let alone 3,000,000 of the "doggone" things.

Could you?

REGULATION OF SECURITIES EXCHANGES—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9323) to provide for the regulation of securities exchanges and of over-the-counter markets operating in interstate and foreign commerce and through the mails, to prevent inequitable and unfair practices on such exchanges and markets, and for other purposes.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. ROBINSON of Arkansas. Mr. President, I think it would be fair and proper to suggest the absence of a quorum. I therefore do so.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Costigan	Johnson	Pope
Ashurst	Couzens	Kean	Reynolds
Austin	Davis	Keyes	Robinson, Ark.
Bachman	Dickinson	King	Russell
Bailey	Dieterich	La Follette	Schall
Bankhead	Dill	Lewis	Sheppard
Barbour	Duffy	Logan	Shipstead
Barkley	Erickson	Lonergan	Smith
Black	Fess	Long	Steiwer
Bone	Fletcher	McCarran	Stephens
Borah	Frazier	McGill	Thomas, Okla.
Brown	George	McKellar	Thomas, Utah
Bulkley	Gibson	McNary	Thompson
Bulow	Glass	Metcalf	Townsend
Byrd	Goldsborough	Murphy	Tydings
Byrnes	Gore	Neely	Vandenberg
Capper	Hale	Norbeck	Van Nuys
Caraway	Harrison	Norris	Wagner
Carey	Hastings	Nye	Walcott
Clark	Hatch	O'Mahoney	Walsh
Connally	Hatfield	Overton	Wheeler
Coolidge	Hayden	Patterson	White
Copeland	Hebert	Pittman	

Mr. HEBERT. I desire to announce that the Senator from New Mexico [Mr. CUTTING], the Senator from Pennsylvania [Mr. REED], and the Senator from Indiana [Mr. ROBINSON] are necessarily absent.

Mr. LEWIS. I desire to announce that the Senator from Florida [Mr. TRAMMELL] is necessarily detained from the Senate, and I regret to announce that the Senator from California [Mr. MCADOO] is detained from the Senate on account of illness.

I ask that these announcements may stand for the day.

The VICE PRESIDENT. Ninety-one Senators having answered to their names, there is a quorum present.

The question is on agreeing to the conference report.

Mr. HASTINGS. Mr. President, on yesterday I urged upon the Senate that this conference report go over until today in order that I might at least have an opportunity to read it.

It will be borne in mind that the Senate made some important amendments to the Securities Act of 1933, which amendments were attached to a bill which had passed the House, so that at the time the bill came to the Senate it was not possible to get any idea as to what the House might do with respect to the Securities Act of 1933. That was left solely to the conference committee.

On the day when the bill passed the Senate I offered several amendments to the stock-exchange portion of the bill and one amendment to the securities-act feature. The Chairman of the Committee on Banking and Currency said he saw no objection to the amendment to the securities act which I proposed, and it was therefore accepted by the Senate.

The amendment proposed by me may not to many Senators seem of much importance. Certainly, at the time I offered it, I could not see how there could be any reasonable objection to it, and I assumed the chairman of the committee, and those with whom he consulted, saw no objection. From my point of view it is a very important amendment.

The draft of the bill as passed by the Senate contained this provision, beginning on page 123:

> SEC. 203 (a). Paragraph (1) of section 4 of such act is amended (1) by striking out "not with or through an underwriter and"; and (2) by striking out "last" and inserting in lieu thereof "first."

That was an amendment proposed by the committee. Then I suggested that the committee amendment be amended by the addition of the following words—

> and (3) by adding after the word "underwriter" the following words "As used in this paragraph, the term 'public offering' shall not be deemed to include an offering made solely to employees of an issuer or of its affiliates in connection with a bona fide plan for the payment of extra compensation or stock-investment plan for the exclusive benefit of such employees."

I do not see why the Federal Government should insist upon having anything to do with the plan of a corporation which decides that, as a part of its policy, it will give certain additional compensation or bonus to its employees. I think that is a matter with which the Government ought not to have anything to do, and there is no public interest involved in the policy of a corporation in adopting such a plan.

For years and years there have been discussions all over this country as to the best method of permitting employees of corporations to share in the profits of the corporations.

Mr. COUZENS. Mr. President, will the Senator yield?

Mr. HASTINGS. I yield.

Mr. COUZENS. I may say, in behalf of the conference, that that matter was given a very great deal of consideration, and one of the controlling factors which caused the elimination of the amendment was the Insull transactions. As a matter of fact, the record shows that literally millions of shares of stock of Insull corporations were sold to their employees merely upon representations of the corporations themselves. We could not find that there was any reason for failing to register those shares, just as any other shares are registered. It would be in no sense governmental interference with a mere plan. It would simply give to the employees of the corporations the same right to have registered the shares which they bought as an outsider would have a right to have the shares he bought registered.

Mr. HASTINGS. The Senator does not mean to intimate to the Senate, does he, that the conferees on the part of the Senate made that argument to the conference?

Mr. COUZENS. No; I am not saying that. I am saying that that was the argument which took place in the committee, and the House conferees were very insistent upon pointing out the evils which have occurred where employees of a number of corporations have been induced to buy shares of the stock of the corporations.

Mr. HASTINGS. Of course, the downfall of the Insull companies. I have no doubt, will result in doing many things which will be of great injury to responsible corporations which are conducting a valid business in a valid way. What is now being done is just another illustration of trying to find some means of curbing every kind of fraud which may have been practiced by any and every person and which can be pointed out as having imposed upon

someone. We never can pass laws of any kind that will take care of all the evils that are bound to occur. I admit that it is the duty of the Congress and any legislative body to do what they can to protect the innocent people of the country, but I do insist that when that is done it ought to be done with such care as not to destroy the rights and the opportunities which may be offered to other business corporations.

Mr. President, there is nothing that I can do about it. I can cite more than one instance of the great hardship which will result from this legislation, not to the corporation but to the employees of the corporation. This provision of the Securities Act destroys the plan of at least one corporation which has worked perfectly for years and which has never had a word of protest registered against it by any stockholder. The corporation had to abandon its plan when the Securities Act of 1933 was passed. I made an effort here—an honest effort—to relieve that situation by offering what I believed to be a harmless amendment to anybody else but a very helpful amendment to a corporation which desired to carry out that kind of a plan.

Mr. FLETCHER. Mr. President——

The VICE PRESIDENT. Does the Senator from Delaware yield to the Senator from Florida?

Mr. HASTINGS. I yield.

Mr. FLETCHER. I agree that when the Senator submitted his proposed amendment it struck me as being entirely reasonable, fair, and just. I took it that way. And I can see what he proposes in a favorable light. But when the bill went to conference the House conferees insisted that there was, first, no reason for the amendment. If the Senator will refer to section 4 of the Securities Act, he will find that it provides:

> Transactions by any person other than an issuer, underwriter, or dealer; transactions by an issuer—
>
> And so forth—
>
> not involving any public offering.

The contention was, and it seems to me it is almost unanswerable, that an offering to employees solely, as provided in the Senator's amendment, is not a public offering. The argument was made that there was no occasion for this amendment, because under the law there would not be a public offering when the stock was offered simply and solely to employees. That was the effect of the Senator's amendment. His amendment is limited, as will be seen by its language, which is—

> The term "public offering" shall not be deemed to include an offering made solely to the employees—

I do not believe under the law it really does.

Mr. HASTINGS. May I inquire—and I make this inquiry because it may be helpful in the future—whether the Senator can say that that was the judgment of the conference itself, or is he speaking only for himself?

Mr. FLETCHER. Yes; that is the judgment of the conference itself; that there is no reason why employees should not subscribe for stock, and stock be subscribed for by employees under the law as it is. And certainly there is no question in the world that the Commission has the authority to declare that such an offering would not be a public one.

Mr. HASTINGS. May I be certain that the RECORD is clear upon this point, and may I have the RECORD show that in rejecting the amendment which I had offered and which under the present administration of the law it was necessary to offer the conference was unanimously of the opinion that the amendment was not necessary, because under section 4 of the Securities Act such an offering as that referred to was not believed to be a public offering? Have I overstated it?

Mr. FLETCHER. I think not. I do not know that I could be authorized to say that the opinion was unanimous, but certainly a majority thought that way, and there was no objection to that view, as I understood. That was the view. And then there was mention in the argument that there was some danger of abuses arising under the broad language of the Senator's amendment; that some corporations might impose on their employees, might exploit them, and that sort of thing. That was the argument used. But the opinion of the conferees was that there really was no need for this amendment, because the Senator could accomplish what he desired under the law as it stands now, and that there is no public offering when it is limited solely to employees.

Mr. HASTINGS. Mr. President, I desire to thank the Senator from Florida for that contribution, because I think it will be very helpful, and I think, in addition to that, if I may be permitted to say so, it justifies the position I took yesterday in asking that this matter might go over long enough to find out just what was in the conference report.

Mr. COUZENS. Mr. President——

The VICE PRESIDENT. Does the Senator from Delaware yield to the Senator from Michigan?

Mr. HASTINGS. I yield.

Mr. COUZENS. I desire to add to what the chairman said—that the definition of an employee may vary. In other words, in many pyramidings of corporations by the Insull people there were employees of subsidiaries of a holding company, and vice versa. I may differ with the chairman as to the interpretation of what an employee is. In other words, if a holding company sells shares to a subsidiary employee, it does not necessarily follow that that employee is an employee of the company which issues the shares.

Mr. HASTINGS. Mr. President, I shall not detain the Senate longer in the discussion of this matter; but I think what the Senator from Florida has just said will have very much to do with the success of this bill. I am very much opposed to it, because while I think it does very many things and will cure many evils that ought to be cured, I believe that in the net result it will do more harm than it will do good. But, at the same time, I want to say that whether that shall or shall not be true will depend very largely upon the administration of this law. I think there are some provisions in it with which it will be particularly hard for corporations to comply. I think there are so many things of that kind in it that many corporations will feel the necessity of having their stock stricken from the Stock Exchange Board. But the proper administration of this law, with the interest of the country at heart, and at the same time without an effort to put the corporations of the country under the control of this particular Commission, is, in my judgment, the only hope we have for any success under this bill.

Mr. STEIWER. Mr. President, I will detain the Senate just long enough to make some inquiry concerning the provisions providing exceptions for certain of the interstate carriers. I am referring to section 13, subsection (b) of the stock exchange bill as it passed the Senate. I think that is the same section and subsection in which the language with respect to carriers is found in the substitute agreed upon in conference. It is contained on page 95 of the bill and on page 15 of the conference report.

Mr. President, when this matter was before the Senate consideration was given to the proposition of exempting rail carriers from the requirements of registration of their securities contained in section 12 and the exemption of certain other carriers from the report requirements of section 13.

The action of the Senate was exemplified by the amendment in subsection (b) of section 13, which reads as follows:

> *Provided*, That carriers subject to the provisions of section 20a of the Interstate Commerce Act, as amended, shall not be subject to the provisions of sections 12 and 13 of this title, except that the Commission may require that such carriers file with it duplicate copies of reports or other documents filed with the Interstate Commerce Commission: *Provided further*, That carriers not subject to the provisions of section 20a of the Interstate Commerce Act, as amended, but subject to section 20 of such act, shall be exempt from the provisions of this section, except that the Commission may require that such carriers file with it duplicate copies of reports or other documents filed with the Interstate Commerce Commission.

The effect of the two provisos just read was to eliminate the railroads entirely from the requirements of section 12 and section 13, and to eliminate the other carriers named in the Interstate Commerce Act, namely, the sleeping-car companies, the telegraph and telephone companies, pipe lines and express companies, from the requirements of section 13 with respect to the filing of periodical reports.

I will not restate the argument upon which that action was taken by the Senate, except to say that the act under which the carriers are controlled already requires more of the railroads with respect to accountancy and with respect to reports than this new Commission under any reasonable conditions conceivably could require of those carriers, both before the issuance of securities and after the issuance of securities. As the Senators know, not only does the Interstate Commerce Commission exercise control over the railroads with respect to the filing of their reports but it also controls the issuance of their securities; it has a veto power under the law, under which no carrier may issue securities except with the consent and approval of the Commission.

The conferees in their treatment of this matter, at page 15, modified the language which I read a minute ago so that the exemption is now stated in this language:

And, in the case of carriers subject to the provisions of section 20 of the Interstate Commerce Act, as amended, or carriers required pursuant to any other act of Congress to make reports of the same general character as those required under such section 20, shall permit such carriers to file with the Commission and the exchange duplicate copies of the reports and other documents filed with the Interstate Commerce Commission, or with the governmental authority administering such other act of Congress, in lieu of the reports, information, and documents required under this section and section 12 in respect of the same subject matter.

The amended language just read to the Senate places the railroads on the same basis as the other carriers mentioned in section 20 of the Interstate Commerce Act. It makes no distinction in favor of the railroads by reason of the unusual and far-reaching requirements of section 20 (a). The effect will be that the railroad carriers, which are already under the control of the Interstate Commerce Commission with respect to the issuance of securities, will be required to register under section 12 of this proposed act, and, although it would appear that the reports which the railroads file with the Interstate Commerce Commission may be filed with the new commission in lieu of the filing of other reports, and that they shall be accepted so far as they go, it still appears that they are required to register.

I merely want to ask the chairman of the committee or some other member of the conference if that was the purpose of the conferees in making that amendment.

Mr. BYRNES. Mr. President, if I may answer the question of the Senator from Oregon, it was the thought of the conferees that the railroads should not be required to file reports inconsistent with those required by the Interstate Commerce Commission, but, inasmuch as their securities were dealt in by the public, just as are all other securities, that they should be required to register. The amendment of the Senator from Oregon would have exempted the securities of railroads from registration.

Mr. STEIWER. That is true.

Mr. BYRNES. I think, as the Senator states, that is the purpose. However, it does not require of them any report differing in any way from those filed with the Interstate Commerce Commission. They are saved the duplication of reports, but are required to register.

Mr. STEIWER. On the question suggested by the observation last made, how do the conferees construe the language in the last portion of the section as follows—

Information and documents required under this section and section 12 in respect of the same subject matter.

Does the Senator believe that that will relieve the railroads from the necessity of filing such additional reports as the new commission, in its judgment, may require?

Mr. BYRNES. Certainly the intent of the conferees, according to my understanding, was that the railroads should not be required to file reports differing from those which are now filed by them with the Interstate Commerce Commission.

Mr. STEIWER. But would they be required to file additional reports?

Mr. FLETCHER. Mr. President, the purpose was to avoid duplicating their work. We did not want them to be required to do the things that are required elsewhere, and if they filed reports pursuant to the Interstate Commerce Act or any other act we did not want to require them to duplicate such reports with the new commission, but merely to file copies.

Mr. BYRNES. Mr. President, there is no prohibition against the requirement of information in addition to that which is submitted to the Interstate Commerce Commission. So, answering the question specifically, in this language there is nothing which would prevent a requirement as to supplemental information.

Mr. STEIWER. I can only express my deep regret, Mr. President, at that attitude and at that interpretation of the language. I believe the interpretation is justified by the language. I am not quarreling with the Senator from South Carolina in the interpretation he places upon the language. I had most sincerely hoped for a different result from the conference. The language of the House bill with respect to the same subject, found in the House bill in section 12 of its enactment, under subsection (b), was as follows:

Provided, That no additional requirement shall be imposed upon carriers subject to the provisions of section 20–a of the Interstate Commerce Act, as amended.

The effect of that language, of course, would be to leave the entire control and jurisdiction over railroad securities with the Interstate Commerce Commission. I had thought there was abundant reason for doing that, and had hoped that in the final enactment of the bill an effect of that kind could be given to the legislation.

We ought to bear in mind that the Interstate Commerce Commission has more than the power to exact reports; it absolutely controls the accountancy of the railroad carriers; it prescribes the form in which they shall keep their books. It not only does that, but it may, and does, examine their books. It has the power to enforce a complete system of auditing those books. It examines the reports. It sends its field agents to the offices of the railroad companies. But, above that, Mr. President, in many cases it even goes to the extent of requiring monthly reports of the railroad carriers. There is, I think, in the whole country no supervision that is as meticulously detailed as the supervision which the Interstate Commerce Commission exercises over the railroads of this country. That supervision, of course, is costly to the railroad carriers, and the expense is paid by the shippers; it is paid by the people, because those costs are proper items to be taken into consideration in the making of rates which the people must pay. It seems to me that nothing can be gained by increasing that cost or increasing the bill which the people must pay; no advantage possibly can come to the purchaser of securities, because it is inconceivable to me that the Commission can accomplish anything of value which is over and above the requirements presently made by the Interstate Commerce Commission.

Mr. BYRNES. Mr. President, will the Senator yield?

Mr. STEIWER. I yield.

Mr. BYRNES. It was our thought, in view of the facts referred to by the Senator, that it would be very difficult to conceive of supplemental information which could be required by the commission appointed under this proposed act.

Mr. STEIWER. I do not think so at all, Mr. President.

Mr. BYRNES. As I think the Senator will see, the language of the conference report is that as to any reports, to which the Senator has referred in detail, that the regulations of the new commission with respect to such reports shall not be inconsistent with the requirements imposed by law, rule, or regulation in respect to the same subject matter. The Senator has said that the reports of the railroads to the Interstate Commerce Commission cover practically every phase of the carrier's business, and there can be no duplication of any of that information.

Mr. STEIWER. Oh, Mr. President, I think the requirements that may be made of the railroads will be limited only by the imagination of the clerks who submit the program to this new commission for its approval. There is not any question but that this authority, if it is construed as the Senator construes it—and I regret that I feel he is correct in his construction—will enable the new com-

mission to make very exacting and very expensive requirements of the rail carriers.

To understand fully the effect and consequence of the action taken by the conferees, it must be borne in mind that the Senate amendment not only prohibited additional requirements being made of the railroads but the Senate amendment, in the language which I read a little while ago, provided—

That carriers subject to section 20a—

Namely, the rail carriers—and I again quote—

shall not be subject to the provisions of sections 12 and 13 of this title, except that the commission may require that such carriers file with it duplicate copies of reports or other documents filed with the Interstate Commerce Commission.

Therefore, it would seem to me, if the purpose of the conferees is as stated by the Senator from South Carolina, that the obtaining of the duplicate statements and reports could have been had under the Senate amendment, and the information which he says is all that conceivably could be asked could have been available to the new commission and to all the investors in the land under the provisions of the Senate amendment, and that, therefore, what the conferees must have had in mind, when they changed the language to permit the new commission to exact other information and to prescribe additional requirements of the rail carriers, was that something other or different might be done.

It would be comforting to me if I could know what the conferees had in mind. The only member of the conference committee who expressed himself was content to say merely that he could not conceive of any additional requirement that might be exacted from the rail carriers. To me it is most regrettable, almost pathetic, that our conferees should have permitted a great piece of legislation of this kind to be written in a way that would permit oppressive requirements to be made of the rail carriers at a time when all of them are confronted with financial exactions beyond their ability to meet, at a time when they are barred from borrowing from the Reconstruction Finance Corporation. At a time when we are wondering what we will do with the rail carriers and whether we can leave them in private ownership at all, we find them confronted with these new exactions which, I think, are wholly unnecessary.

This provision in the conference report not only makes the carriers subject to section 12 of the bill requiring registration of securities which are entirely under the control of another Federal agency, but it requires the additional reports to which I have referred. There now remains this consideration: If it was the purpose of the conferees, in placing the railroads back under the registration requirement, to subject the railroads of the country in the issuance of their securities to the requirements of the Exchange Commission, we have an anomalous situation indeed.

I appreciate there is no express requirement here that the issuance of securities shall be subject to the jurisdiction of the Exchange Commission, and yet I can conceive of many circumstances and various ways under and by which the new Commission may absolutely block the issuance of securities, may control, or thwart the effort of a railroad company with respect to the issuance of securities.

I can conceive, moreover, that the Interstate Commerce Commission in the exercise of its jurisdiction may take one attitude with respect to the issuance of securities, and the Exchange Commission take another. In the conflict of authority I am not prepared to say which agency of the Government would be supreme, but it rather seemed to me, because the Exchange Commission actually controls the sale of issues on the exchanges, that the power of the Exchange Commission would become supreme and paramount to the power and jurisdiction of the Interstate Commerce Commission. I very much doubt if Congress, in the enactment of this legislation, intended any such result to follow.

RELIEF OF FARM INDEBTEDNESS

Mr. LONG. Mr. President, I have here a bill which I want to bring to the attention of the Senate, which was reported this morning, being Senate bill 3580, the Frazier bill, which was offered as an amendment the other day. There were such misgivings as to the constitutionality of the proposed amendment that most of the Senate voted against it, probably, as I understood, on constitutional grounds.

However, the bill was then referred to the Committee on the Judiciary. That committee referred the matter to a subcommittee. The subcommittee studied the question and reported back to the main committee. The report of the subcommittee to the main committee and the report of the main committee to the Senate both hold that this is a very good measure and that it is constitutional.

I should not have time, when the tariff bill is before us for consideration, to discuss the Frazier bill at length, and I am necessarily forced to say now what I have to say about it, so that I may have the time to bring it to the attention of the Senate as I desire. I do not know just when the Congress is expected to adjourn.

This bill has also been reported favorably in the House. I had hoped that it would be possible to have the bill laid before the Senate before proceeding with any further controversial legislation. This is not a piece of controversial legislation, in my opinion. In the Judiciary Committee there was practically no objection to it. If the party leaders have not had an opportunity to study it, I wish they would get copies of it and look at it while I am proceeding for a few minutes.

We have added a section to the original measure which was here the other day. The original bill as introduced by the Senator from North Dakota [Mr. FRAZIER] provided, first, that there should be a bankruptcy proceeding for the farmer and the agriculturalist, and that when bankruptcy was applied for by a creditor, after going through certain procedure, the United States court should appoint appraisers. Those appraisers then would value the property; that is, they would value the farm which was affected by the mortgage or by any other lien or encumbrance.

After they had appraised it on the basis of its present value, not necessarily its cash value but on what would be a fair value at the present time, that appraisement would be submitted to the court, and then the court would allow a period of 5 or 5½ years in which the amount fixed by that appraisement might be paid and discharged by the original debtor.

If I may explain it further, we will say that in the year 1926 or 1927 or 1928 a farm might have been worth $10,000, on the basis of the 60-cent dollar. Today that farm would be worth probably around $4,500. Manifestly a mortgage of $10,000 on that farm cannot be paid in that way. The dollar is not of the same value. The Frazier bill, reported by the Judiciary Committee, practically with no opposition at all—if there were any opposition, it was not expressed—would do this: The farm which was worth $10,000 would be appraised by the court through competent appraisers at, we will say, a present value of $4,500. The original debtor would be given 5 or 5½ years in which to discharge that amount which had been fixed as the present value of the property according to the appraisement.

Another provision has been added in addition to that, section 7, which reads as follows:

(7) In case a majority in number and amount of all the secured and unsecured creditors of the debtor file written objections, at the first hearing, to the manner of payments and distribution of debtor's property as herein provided for, then the court, after having set aside the debtor's homestead and exemptions, shall stay all proceedings for a period of 6 years, during which 6 years the debtor shall retain possession of all or any part of his property, under the control of the court, provided he pays a reasonable rental annually for that part of the property of which he retains possession. The first payment of such rental to be made within 6 months of the date of the order staying proceedings, such rental to be divided and distributed among the secured and unsecured creditors, as their interests may appear, under the provisions of this act. At the end of 6 years, or prior thereto, the debtor may pay into court the appraised price of the property of which he retains possession, less rentals paid, provided that upon request of any lienholder on real estate the court shall cause a reappraisal of such real estate and the debtor may then pay the reappraised price, less rentals paid, into the court, and thereupon

the court shall, by an order, turn over full possession and title of said property to the debtor and he shall be discharged from all his debts, both private and public, as hereinbefore provided.

This amendment simply means that if the property owner is not granted by a majority of the creditors the right to pay out the property in 5 or 5½ years' time, then a majority of the creditors can simply say, "We do not care to have this done, but we will grant a moratorium."

Paragraph 7, which I have been trying to get my friends to notice, is a provision that if the debtor is not allowed to buy out the property in 5½ years, a majority of the creditors can simply prescribe a moratorium. In other words, when the court decides to take over the property of an adjudicated bankrupt, the creditors have one of two alternatives relative to disposing of the mortgaged farm. First, they may say that the man may have 5½ years in which to discharge the debt; second, if they do not want that done, they can grant a moratorium for a period of 6 years, at the end of which he would be required to pay out the debt in full. That is the section which we have added.

What I want to do is to try to get unanimous consent—because this bill must be carried out of here pretty soon if it is to do any good—to place this bill on the calendar at the conclusion of the pending bill; I do not mean the pending conference report. I think perhaps it will be acted on in the other House before it is acted on here. I do not think it will consume much time, but unless we can get it through the Senate in pretty much of a hurry it will not be of any value to us. The constitutional questions have been studied by two committees, and the bill has been reported out by the committees of both Houses. It is a form of relief similar to that which we have granted to all other industries except agriculture.

I should like to ask unanimous consent to make this bill the unfinished business following the disposition of the tariff bill.

Mr. ROBINSON of Arkansas. Mr. President——

The VICE PRESIDENT. Does the Senator from Louisiana propound a unanimous-consent agreement?

Mr. LONG. I will yield to the Senator from Arkansas first.

Mr. ROBINSON of Arkansas. No; if the Senator wishes to submit the request, I myself desire to make a brief statement.

Mr. LONG. Then, I ask unanimous consent that Senate bill 3580 be made the unfinished business following the disposition of the tariff bill.

The VICE PRESIDENT. Is there objection?

Mr. ROBINSON of Arkansas. Mr. President, the statement made by the Senator from Louisiana indicates that the Committee on the Judiciary has attempted, at least, to bring the bill within the rule of the Minnesota mortgage case. I have had no opportunity to examine the measure, and therefore cannot consent at this time to giving it a preferential status. I shall be glad to make a study of the bill as soon as time is afforded me, and will then indicate further my view regarding it. For the present, I object to the request.

The VICE PRESIDENT. Objection is heard.

Mr. LONG. Mr. President, I may say to the Senator from Arkansas that there has been practically no important change made in the bill. The bill as originally drawn was within the Minnesota mortgage case. However, to my surprise a very splendid brief was submitted to the Judiciary Committee, of which I am a member, by Representative LEMKE, and the authorities were so clear and convincing that even if no Minnesota case had been decided recently the constitutionality of the bill would be almost beyond any question.

In other words, it seems that the courts have quite frequently, in these adjudicated cases, referred the creditor to the proceeds of the property rather than to the property itself. That has been done a number of times; and it seems that the courts have also exercised the right to postpone payments. It has been held a number of times by the courts that they can sell the property on terms. The court does not have to sell the property, even though there is a mortgage which gives the creditor a right to foreclose; yet the courts quite frequently have asserted their right to extend the payments in a way that will benefit the bankrupt property or the creditor or even the debtor. It has been decided time after time by the courts that they can postpone the time. Then, again, the courts have also held that instead of the creditor having his recourse to the property, he can have his recourse to the lien; so that there really is not anything of any serious purport in the bill.

I am not going to pursue the matter further at this time. I ask the Senator from Arkansas to look into it a little more closely within the next few hours, and I shall try to renew my request at a later time in the day.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

Mr. BYRNES. Mr. President, I desire to make a short statement with reference to the amendments to the Securities Act of 1933 which are contained in the conference report just adopted.

I think it is a fair statement that under the conference report the provisions as to the civil liability of underwriters and of the officers and directors of a corporation are so amended that no honest man need have any fear of the law so long as he is willing to give to the corporation of which he is an officer, and in which he has invested his money, the same reasonable care that he gives to the management of his own property.

Every section of title 2, containing the so-called "Fletcher amendment", liberalizes the provisions of the Securities Act of 1933. The modifications have grown out of the administration of the act during the past 12 months. Some of them seem to be merely administrative changes, but in each case they will be found to liberalize the existing requirements.

The provisions of the Securities Act of 1933 which have caused the greatest complaint are those as to the civil liability of underwriters and of the officers and directors of corporations on account of false statements in the registration statements filed by corporations. Under the existing law, where the registration statement contains a false statement of a material fact, or omits to state a material fact necessary to make the statement not misleading, any person who suffers a loss can sue the underwriters, the officers and the directors of the corporation. The existing law provides, however, among other things, that as regards any part of the statement purporting to be made on the authority of an expert, or to be an extract from the report or valuation of an expert, the defendant shall not be liable if he had reasonable ground to believe and did believe that the statements therein were true. It also provides that a director is not liable if he can establish the same defense as to the statement of an officer.

There can be no doubt that the provisions of the existing law caused many men who were serving as directors of corporations to fear that they might be subjected to so-called "strike suits" as the result of the administration of that law. The existing law defined what constituted reasonable investigation and reasonable ground for belief, and set forth the standard as the care required of a person occupying a fiduciary relationship. That phrase was greatly misunderstood by many officers and directors of corporations.

The amendments which have just been adopted by the Senate change the law in very important and material particulars. These amendments provide that a defendant shall not be liable for any false statement made on the authority of an expert, or purporting to be an extract from the report of an expert, if the defendant can show that he had no reasonable ground to believe, and did not believe, that the statements were untrue; and the law is changed to provide that in determining what constitutes a reasonable investigation and reasonable ground for belief, the standard shall be that required of a prudent man in the management of his own property. No honest man will contend that anything less should be demanded either of an underwriter or of an officer or director of a corporation offering securities for sale to the public.

However, the amendments adopted today give greater assurance to the honest officials of a corporation. Whereas the existing law permits a suit to be brought at any time within 10 years after the filing of the registration, the new law will permit such a suit to be brought only within 3 years. It has been argued heretofore that a director would be uncertain as to the settlement of his estate in case of death because of the liability that would exist for a period of 10 years. Under the new law, a suit must be brought within 3 years.

Under the existing law, the plaintiff is entitled to recover the amount of the loss suffered by him as a result of the purchase and sale of the security. Under the new law, the defendant will have the right to show whether a part of the plaintiff's loss is due to some cause other than the untrue statement, and to such extent will be able to reduce the amount of the recovery by the plaintiff.

Another change in the amendments is as to the requirement that the plaintiff allege or prove that in purchasing the securities he relied upon the statement which was afterward discovered to be false. The new law modifies this requirement. It provides that the plaintiff will not have to allege or prove reliance until the corporation has made available to security holders an earning statement for at least 12 months subsequent to the filing of the registration statement.

After such an earning statement shall be made available, the plaintiff will be required to allege and prove that he relied upon the false statement.

There is justification for the provision that reliance be not required until a 12 months' earning statement is made public. When an issue of securities is proposed, a banking house will investigate the financial statement of the corporation. Based upon the statements contained in the registration statement of the corporation, a banking house will offer the securities at a certain price. Therefore, the market value is fixed by the false statement of the corporation. The individual investor relies upon the investigation made by the banker. It is fair to assume that this situation continues until such time as the corporation makes available a statement showing its earnings for 12 months. Then, the market value is influenced by the statement of actual earnings and not by the statements contained in the registration statement, which deceived the underwriter or banker and the investor. It is entirely different from trading in stocks upon the exchanges, where those who trade have access to statements of earnings constantly filed and published.

An additional assurance to the officers of a corporation is given by the provisions in the new bill aimed at so-called "strike suits." Under the new law, the court will have authority to assess costs against the plaintiff; and because it is recognized that the plaintiff who will resort to bringing nuisance suits has, as a rule, no financial responsibility, the court, on motion, can require such plaintiff to give bond to cover the costs of the suit before proceeding with a suit.

I repeat, it is a fair statement to make that when the provisions of the so-called "Fletcher amendments" are analyzed, they give assurance to every honest man who is an official of a corporation that he need have no fear of the Securities Act of 1933 as amended, provided he is willing to give to the corporation in which he has invested his money the same reasonable care that he gives to the management of his own property.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Vice President:

S. 85. An act for the relief of Paul J. Sisk;

S. 177. An act for the relief of Woodhouse Chain Works;

S. 256. An act for the relief of Milburn Knapp;

S. 308. An act to authorize the award of a decoration for distinguished service to Harry H. Horton;

S. 512. An act for the relief of Peter Pierre;

S. 785. An act for the relief of Elizabeth Bolger;

S. 1073. An act for the relief of E. Walter Edwards;

S. 1081. An act for the relief of McKimmon & McKee, Inc.;

S. 1429. An act for the relief of Anthony J. Lynn;

S. 1460. An act for the relief of Edgar Stivers;

S. 1772. An act for relief of the Western Montana Clinic, Missoula, Mont.;

S. 2002. An act for the relief of R. S. Howard Co., Inc.;

S. 2342. An act for the relief of I. T. McRee;

S. 2745. An act to provide for changing the time of the meeting of Congress, the beginning of the terms of Members of Congress, and the time when the electoral votes shall be counted, and for other purposes;

S. 2748. An act to authorize an appropriation for the reimbursement of Stelio Vassiliadis;

S. 2798. An act for the relief of Nephew K. Clark;

S. 2889. An act for the relief of certain Indians of the Fort Peck Reservation, Mont.;

S. 2969. An act for the relief of the Mary Black Memorial Hospital;

S. 2980. An act to modify the effect of certain Chippewa Indian treaties on areas in Minnesota;

S. 3128. An act to pay certain fees to Maude G. Nicholson, widow of George A. Nicholson, late a United States commissioner;

S. 3307. An act for the relief of W. H. Le Duc; and

S.J.Res. 123. Joint resolution empowering certain agents authorized by the Secretary of Agriculture to administer oaths to applicants for tax-exemption certificates under the Cotton Act of 1934.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries, who announced that on May 28, 1934, the President had approved and signed the following acts:

S. 258. An act for the relief of Wallace E. Ordway;

S. 1882. An act to authorize the Secretary of the Interior to issue patents for lots to Indians within the Indian village of Taholah, on the Quinaielt Indian Reservation, Wash.;

S. 1328. An act to provide for the donation of certain Army equipment to posts of the American Legion; and

S. 3397. An act to amend the laws relating to the length of tours of duty in the Tropics and certain foreign stations in the case of officers and enlisted men of the Army, Navy, and Marine Corps, and for other purposes.

RECIPROCAL TARIFF AGREEMENTS

The Senate resumed the consideration of the bill (H.R. 8687) to amend the Tariff Act of 1930.

Mr. WALSH. Mr. President, as a member of the Committee on Finance and as a representative here of an important industrial State, I feel that I ought to take this occasion to present my views not only on the pending amendment but also on the bill itself.

I can understand Senators opposing this measure on the ground that the bill is unconstitutional.

I can understand the opposition to the measure on the ground that it is a dangerous public policy and contrary to the public welfare to entrust tariff revision through international agreements to the President.

For those of us, however, who are willing to grant this extraordinary power for a limited period of 3 years as an emergency measure, and because the President bases his request for this measure on the fact that it is a necessary link in his recovery program, there can be no claim reasonably advanced in favor of eliminating agricultural products and confining the President's tariff-adjustment authority merely to manufactured articles.

A vote for this measure must be based primarily on faith and confidence in the President to do the just thing, to act cautiously, prudently, and for the best interest of the entire country in executing these trade agreements.

This does not mean that the President is infallible or that he may not make mistakes. It is to be assumed, however, that if he does make mistakes, they will be no more numerous nor more injurious to our domestic and foreign trade than those the Congress may make in enacting a tariff bill.

Since the basis of this legislation is necessarily confidence that the President will wisely exercise the power which we propose to delegate to him, there is no validity to the proposition to exclude the products of agriculture from the scope of the President's tariff discretion. Instead it is sectionalism; indeed, it is selfishness. Any Member of the Senate who votes for this amendment, and, in the event of its adoption, then votes for the bill, is taking the position that he is quite willing to delegate to the President authority to enter into trade treaties, and in that connection to change tariff rates on some other State's products, but not on the chief products of his own State. He trusts the President with the industrial tariff rates, but not with agricultural tariff rates.

Of course, if this amendment shall prevail, the bill will be dead. Doubtless there will be some votes for the amendment for the express purpose of killing the bill by an oblique attack instead of by direct attack.

The exclusion of agricultural products from the President's authority would hamstring his trade-pact negotiations, assuming the enactment of the bill so restricted. But the bill would not reach enactment. No Member of Congress from an industrial constituency like my own could support a measure which proposed to limit the President's authority to industrial tariffs and which served notice in advance that tariff rates on industry and industry alone would be subject to revision.

I shall vote against the amendment—and I expect to see it rejected—but I give notice now that if the amendment shall be adopted I shall offer an amendment to exclude similarly from the operations of the President's trade-agreement authority all industrial tariffs. I shall offer such an amendment simply to demonstrate the utter inconsistency of the proponents of this agricultural-exclusion amendment. Then, upon the rejection of a similar exclusion for industry, I shall vote against the whole bill and urge its defeat.

In this matter, what is sauce for the goose is sauce for the gander. My position is, let us give the President authority over all tariff rates or else over none. Let us either trust him entirely in this matter or not at all.

The proposal to exclude tariffs on agriculture has the further irony that it is agriculture rather than industry which is to be the primary beneficiary of such trade agreements as the President may undertake to negotiate.

Let us prove this. We must assume that the objective of this bill is not to impair foreign trade but at least to retain our present export business; and, if possible, to expand it. If that is not the objective, then the bill is useless.

The very first fact that any study of our export trade reveals is that the retreat from world markets of American products in recent years has borne more heavily on agriculture than on industry. We are now talking about the preliminary facts which must be taken into consideration by those negotiating these proposed agreements. First of all, agriculture has suffered more in our export trade than has industry.

The next fact is that any program of economic recovery which does not take into account the surpluses of agricultural products produced in this country is doomed to fail.

We have been spending 3 years of legislative effort in trying to dispose of the surpluses of agricultural products. Everyone has conceded that that was the basis of recovery. Senators are familiar with the innumerable measures we have passed for that purpose. Now, an effort is being made to help take care of agricultural surpluses by negotiating with foreign countries to take them through trade agreements which we may make with those countries. Agriculture is to be the principal beneficiary of such agreements, yet the position of agriculture, insofar as the proposed amendment expresses its position, is that it will take any and all the benefits but is unwilling to make any contribution.

The third fact is that our principal markets for surplus agricultural products are in Europe, and that in European countries today there is a tendency, indeed, a successful effort, to exclude from their markets both agricultural and industrial products of the United States.

Mr. President, that cannot be denied. I now inquire, What are we going to do about it? Shall we pass a tariff bill? No one presents such a proposal. No such proposal is before us.

There is only one of two courses for us to follow; that is, do nothing or else permit the President of the United States to attempt by negotiations to revive our foreign trade through reciprocal-trade agreements.

There is no alternative, no other way to take care of our agricultural surpluses insofar as they may be disposed of through foreign trade. And bear in mind that the record shows that there has been a greater decline in the export of agricultural products than of industrial products.

Mr. LONG. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Louisiana?

Mr. WALSH. I would rather not yield until after I have finished my general statement, because it covers my views on the subject; and when I shall have finished, I shall be glad to yield to the Senator from Louisiana.

Mr. LONG. Mr. President, will the Senator answer one question?

Mr. WALSH. I prefer not to yield until I have finished my statement. I shall be glad to yield to the Senator afterward. If this amendment to the pending bill should be adopted, it would put the Executive in the position that when he sought to break down European barriers against American agricultural products, he would be met by the contention that agricultural products, according to the position which we ourselves have taken, should be outside the scope of the proposed agreements and that discussions must be confined to industrial products.

Thus one of the main objects of the bill, which is to find markets for agricultural surpluses, would be defeated.

The list of agricultural products of which surpluses are produced and for which foreign markets must be found or at least maintained at their present level, if agriculture is really to prosper, is appallingly large.

They are, first and foremost, cotton, tobacco, lard, and wheat.

Other agricultural products, whose dependence upon export trade is of vital importance, are canned vegetables, dried fruits, and canned fruits. Exports of fresh fruits also are large. Exports of fresh apples averaged in 1929 and 1932 approximately 20 percent of the total commercial production. Exports of fresh pears in 1932 represented 10 percent of the production. In the case of all dried fruits, the exports from 1929 to 1932 represented approximately 45 percent of the total production.

Let me repeat that. In the case of all dried fruits, the exports from 1929 to 1932 represented approximately 45 percent of the total production.

The injury that would result to producers and growers of raisins, dried apples, apricots, and prunes, if their tremendous export market should be taken away, would be very substantial.

While there are some imports of rice, it is essentially on export basis, some States, such as Louisiana, depending upon foreign markets for disposal of a considerable portion of their production.

We have been exporting more than 50 percent of the production of our prunes.

We have been exporting about 25 percent of our total production of canned fruits.

In some instances foreign countries have adopted sanitary and tariff barriers which have greatly impaired this export trade, with the result that distressing conditions have arisen among these producers, and prices paid to farmers have declined materially.

I inquire, How is that condition to be met? How are the barriers set up by foreign countries under the name of sanitation to be broken down to permit their markets to be kept open to us except by negotiation? Whether the negotiations succeed or not may be another question, but there is no alternative left but to make the attempt.

Mr. President, both agriculture and industry have a common interest in finding profitable foreign markets for their surplus products.

What I have been urging, however, is that the very first study of this matter of trade agreements leads to the conclusion that the Executive will fail unless he succeeds at least in retaining our present agricultural export markets, and that his primary objectives must be to take care of our agricultural surpluses. The adoption of this amendment, if my contention is sound, means that the very first objective of the bill will be defeated.

Mr. President, let me add a general statement relative to the bill as a whole. In my opinion tariff-protected industries are unduly alarmed about the proposed grant to the President of authority to negotiate reciprocal-trade agreements. Their fears are exaggerated.

Under existing law the President may by Executive order increase or decrease existing import duties not more than 50 percent of the existing rate, upon the recommendation of the Tariff Commission. Under this bill the President's authority to modify existing tariff rates is similarly limited to 50 percent, and by the terms of an amendment to the present bill, which our committee has added, it will be incumbent upon the President to seek advice and information from the Tariff Commission and from other official channels.

Under existing law the President is not required to follow the recommendation of the Tariff Commission, but may not act affirmatively without the Commission's recommendation. Under the pending bill the President may disregard the Tariff Commission's advice if he sees fit, as in the past, but, more than that, may change a rate for purposes of a trade agreement within the prescribed limit without any recommendation from the Commission.

Neither under the existing law nor under the pending bill is the President permitted to transfer any article from the free list to the dutiable list, or vice versa.

Concededly, Congress is proposing to broaden the authority of the Executive to change tariff rates, but not so broadly as has been so generally assumed. We admit that this is a broader power than has heretofore been possessed by the Executive. Furthermore, this extension of the President's authority is only for the express purpose of permitting the negotiation of reciprocal-trade agreements, and is in the nature of a temporary and experimental grant of authority for the purpose of stimulating our economic recovery.

By the terms of the bill the President's new authority is limited to 3 years.

We have the President's pledge, contained in his message to Congress on this present bill, that "no sound and important American interest will be injuriously disturbed." We have the requirement, contained in the Senate committee amendment, for public notice of intention to negotiate a trade agreement, and an opportunity to all interested parties to be heard, and to protest, if there be basis for protest.

No one contends that extension and expansion of our own foreign trade, if it may be secured without prejudice to our domestic trade, is other than desirable. The controversy turns on whether it is going to be possible to make reciprocal-trade agreements which will promote our foreign trade without prejudice to or sacrifice of our home markets. I entertain serious doubts on that score. But that can only be determined by negotiation.

We are proposing to authorize the President to negotiate trade agreements. I see no basis for the assumption that the President will abuse this authority or will actually conclude any trade agreement unless it is actually beneficial to our own Nation. We must concede that. Nor do I assume that any of our own industries are going to be sacrificed or one preferred over another.

Such an assumption presupposes a policy the exact reverse of the policies of the President.

Mr. President, in view of the increasing restrictions and obstacles placed in the way of normal movement of trade between the nations, this Congress is faced with the problem of either passing such a measure as this—which provides the only method at the present time for regaining some share of the trade of the world—or of watching the continued distress of agriculture and of such other industry which must have a foreign market to prosper.

This is what no action at this time means. Mr. President, no action at this time means laissez faire—doing nothing. The only hope, the only promise of improved conditions in our export trade is in permitting the President for the limited period named in this measure, as an emergency measure and as a part of his recovery program, to enter into negotiations, make an effort, if possible, to improve our domestic trade and our foreign trade by entering into agreements, if it is possible by so doing, to improve agricultural and industrial conditions in this country.

I now yield to the Senator from Louisiana.

Mr. LONG. The Senator sat in the Democratic convention, did he not?

Mr. WALSH. Yes, sir.

Mr. LONG. Does the Senator remember our platform pledge on the tariff there?

Mr. WALSH. Yes, sir.

Mr. LONG. We were going to leave it to a fact-finding commission to adjudicate the difference in the cost of production.

Mr. WALSH. I recall that.

Mr. LONG. I wonder if the Senator would have any objection to the Fletcher amendment, which simply provides that the farmer will be guaranteed on whatever is imported to this country that there will be a rate equal to the difference between the cost of production at home and abroad? Would the Senator object to supporting that kind of an amendment?

Mr. WALSH. I would object to supporting that kind of an amendment or any amendment that restricts the opportunity for negotiating on any basis other than improving our export trade.

Mr. LONG. I will ask the Senator one more question. The Senator has made a marvelous speech. The Senator lives in Boston, Mass.?

Mr. WALSH. Unfortunately, perhaps, I do not live in Boston; but I live 35 miles away from Boston, in a manufacturing community surrounded by agricultural communities.

Mr. LONG. I was wondering if the manufacturing interests of the Senator's State were more interested in swapping farm commodities against manufactures or in swapping manufactures against farm commodities?

Mr. WALSH. I believe the thinking, intelligent people of Massachusetts and of New England realize there can be no permanent industrial or economic recovery in this country until the agricultural problem shall be satisfactorily settled, until the agriculturist receives more for what he produces than he receives today, until the excessive difference between what the producer receives and what the consumer pays is in some way adjusted.

I represent an industrial State. I have taken occasion to point out that, in my judgment, the undertaking of the President to negotiate trade agreements will fail, and fail completely, unless, first and foremost, he shall find means and ways of taking care of the agricultural surpluses of the country. I think that is the very crux of this whole proposition. Before he enters into negotiations as to industrial products, he has got to find a way to do that, as we have been trying in the Congress to find a way to do it. We have passed bill after bill. What for? To see if the agricultural surpluses could be taken care of, because we have made that the basis for any effort toward permanent recovery.

Mr. LONG. Mr. President——

Mr. WALSH. I yield further to the Senator from Louisiana.

Mr. LONG. I think it was either in Boston or just before the President reached Boston—the Senator will remember—that the President said:

> Of course, it is absurd to talk of lowering tariff duties on farm products.

I have wondered if the Senator had been apprized of that statement.

Mr. WALSH. I assume that the President had in mind that it was absurd to reduce duties on agricultural products where the duties were effective. It is my judgment, and I assume it is the President's judgment, that there are many agricultural products the duties on which are not effective.

Mr. LONG. The Senator would not want to do one of these absurd things, would he? He would not want to do the absurd thing of reducing tariff rates on agricultural products? The Senator is a reasonable man, and a strong supporter of the administration, and the President said it would be an absurdity to talk about reducing the tariff on agricultural products. I am just wondering if the Senator would have any objection to having the bill perfected along that line?

Mr. WALSH. I would object to any amendment of that kind, because I believe the President should have authority, if he is going to negotiate trade agreements, to negotiate for a reduction of duties on manufactured products where the duties are ineffective and too high, and also for a reduction of duties upon agricultural products where they are ineffective and too high, if it will lead to an increase in the export business of the United States and help increase our domestic production.

Mr. LONG. I will ask the Senator one more question, and then I will ask no more. I understood that it was the Senator from Georgia and the Senator from Massachusetts who drew the document for the Democrats of the Finance Committee calling on the people of the Nation to rise up in opposition to prevent the encroachment of bureaucratic power. I was wondering if the Senator has had reason to change those views.

Mr. WALSH. Mr. President, I anticipated such a question. I have always been, and am today, unalterably opposed to a permanent policy being adopted in this country giving to the Chief Executive control over tariff duties. I have voted against such a proposal and have spoken against it, and when this bill was first proposed to the Finance Committee, when I left the room of that committee, the first statement I made to the press was to the effect that unless the bill was restricted to a limited period of time, covering the period of the depression, say 3 years, I would oppose it. I find nothing in my present attitude inconsistent with the position which I have repeatedly taken, that it is an unsound policy to deliver over as a permanent power the control of tariff rates and duties to the Chief Executive of this country. I think, however, he ought to have more control than he now has. I have advocated on this floor limiting tariff discussions and votes in this Chamber to single commodities. I have advocated also the right of the President to veto a single item in a tariff bill.

Mr. BARKLEY. Mr. President——

Mr. WALSH. I will yield to the Senator in a moment, when I shall have finished this thought. So I say there is nothing inconsistent between my position in the past and that which I now assume, that with the President's seeking to bring about recovery in this country by means which he believes will be helpful, he should be intrusted temporarily, in view of the conditions in the world, in view of the trade barriers that have been erected all over the world, in view of the discrimination against our products, in view of the decline in exports, with the power proposed to be given to him by the pending bill. I see nothing inconsistent with a position in opposition to a general policy of Executive control of tariffs and favoring a temporary policy, during this period of distress, during this period of depression, intrusting him with the authority by negotiation to improve, if he can, conditions and giving him an opportunity to undertake negotiations, designed to improve by this method our declining export business. I repeat, I see nothing inconsistent in that course.

I do not mean to withdraw one iota from the position I have always taken, that I am unalterably opposed to the Executive's, as a national policy, having complete and final control over tariff making; but the present situation is different. I have changed my position on measures radically changing our permanent policies, such as the economy law. Would any of us ever think of voting for such an act under normal conditions? Would any of us think of voting billions of dollars to the Reconstruction Finance Corporation for the purposes for which we have given it to them? Would any of us think of appropriating large sums of money such as we have appropriated to protect the farm owners and home owners? Dozens of measures have been passed in the Congress which are inconsistent with all the policies which we have stood for and advocated as Democrats and United States Senators; but we are in the midst of unusual, exceptional, and extraordinary conditions. That these new measures will succeed no man can predict with certainty; that there has been a measure of success to this hour no man can question. What we are doing is trying, as best we may, in this hour of darkness and depression, to find some way, to grip some lifesaver, which will relieve the distress from which we are suffering, and thus bring about the dawn of a better day.

After serious consideration of this measure and realizing that it has been given exceptional and serious study by the President of the United States and his advisers, I have reached the conclusion that no harm can come—and I hope and pray some good may come—from intrusting the President with this extraordinary power; power which we would not yield, as we would not have yielded other powers we have granted, except for the economic war, a war not so bloody as military war but just as destructive and harmful in the suffering involved, in its danger, in its misery, in its poverty, and in its curtailment of the prosperity which our people have enjoyed for more than a century under the benign guidance of the Supreme Being.

I beg pardon of the Senator from Kentucky, and I yield to him.

Mr. BARKLEY. Mr. President, I wanted to make an inquiry of the Senator, in connection with the interruption of the Senator from Louisiana [Mr. LONG], who evidently had in mind to create the impression of some inconsistency on the part of the Senator from Massachusetts, as well as others, relative to the attitude we took in 1931 when the Smoot-Hawley tariff bill was under consideration. My name, as have the names of other Senators, has been bandied about here during this debate because we took a position against the amendment that was adopted in the Smoot-Hawley tariff bill; but is there not a wide difference between a bald delegation on the part of Congress to the President of the power to fix tariff rates and a law making the President the negotiating agency of Congress to bring about agreements by which we hope to sell more of our exportable products?

Mr. WALSH. There is no doubt about it.

Mr. BARKLEY. And so there is no inconsistency whatever?

Mr. WALSH. Further, there is an entire difference between a permanent policy and a temporary policy. Of course, conditions determine all policies. We would not permit the President of the United States in peace times to exercise the power he does in war, and we would not permit the President of the United States under normal conditions and circumstances to enjoy the power we propose to give him here.

Mr. BARKLEY. Mr. President, one more question. Would it not be an act of folly for Congress to authorize the President to enter into agreements designed to bring about a larger sale of our commodities in the markets of the world and by the same act tie his hands and hitch him to a post so that he could not actually negotiate any such agreements without laying all his cards and all our cards on the table, whereby our negotiating opponents might see exactly what we proposed to do or what our limitations of authority might be?

Mr. WALSH. The Senator is correct.

Mr. CLARK. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Missouri?

Mr. WALSH. I yield to the Senator from Missouri.

Mr. CLARK. I should like to ask the Senator from Massachusetts a question. When the document to which so much reference has been made was signed by the Democratic members of the Finance Committee, is it not a fact that the essential controversy involved in the tariff bill of 1930 was whether the flexible provisions of the tariff were to be made the permanent policy of the Government or a temporary policy?

Mr. WALSH. Yes.

Mr. CLARK. There is no essential difference between section 415 of the Fordney-McCumber Act and section 336 of the Hawley-Smoot Tariff Act. The controversy was whether the power which had been granted the President in the Fordney-McCumber Act should become a permanent policy of the Government. Is not that true?

Mr. WALSH. Yes; that is true.

Mr. President, I want to say a word to Senators who, like myself, represent manufacturing or industrial communities. Of course, if they are opposed to the bill, and they have a right to be, as I have already pointed out, I could respect the opposition based upon certain grounds; but it does not seem to me they have any right to vote for the Johnson amendment for the purpose of restricting and limiting the trade negotiations simply to industrial products. It seems to me they are discriminating against their own industries in so doing. They are taking the chance that if harm comes it will come only to those industries which are the basis of the prosperity of their own States. I do not assume that harm is going to come.

Those who oppose the measure, many of them at least, base their opposition upon the ground that it is unsound public policy, and that they do not feel they can trust the protection of the particular industries to the investigation and authority and power of the Executive of our country. I take the position that if we are going to give the power to make agreements, the President ought to have the power to make agreements as to all American products, or none. I take the position that the prosperity of the country depends upon the prosperity of agriculture and industry alike, and I go further—a little bit more upon agriculture than industry, because it is fatal to the prosperity of any people to have agriculture prostrate.

Mr. President, I have held the floor longer than I intended and I now yield the floor.

DEBTS OWED THE UNITED STATES BY FOREIGN GOVERNMENTS

The PRESIDING OFFICER (Mr. ADAMS in the chair) laid before the Senate a message from the President of the United States, which was read, as follows:

To the Congress of the United States:

In my address to the Congress January 3 I stated that I expected to report later in regard to debts owed the Government and people of this country by the governments and people of other countries. There has been no formal communication on the subject from the Executive since President Hoover's message of December 19, 1932.

The developments are well known, having been announced to the press as they occurred. Correspondence with debtor governments has been made public promptly and is available in the annual report of the Secretary of the Treasury. It is, however, timely to review the situation.

Payments on the indebtedness of foreign governments to the United States which fell due in the fiscal year ended June 30, 1932, were postponed on the proposal of President Hoover announced June 20, 1931, and authorized by the joint resolution of Congress approved December 23, 1931. Yugoslavia alone suspended payment while rejecting President Hoover's offer of postponement.

In the 6 months of July to December 1932, which followed the end of the Hoover moratorium year, payments of $125,000,000 from 12 governments fell due. Requests to postpone the payments due December 15, 1932, were received from Great Britain, France, Belgium, Czechoslovakia, Estonia, Latvia, Lithuania, and Poland. The replies made on behalf of President Hoover through the Department of State declined these requests, generally stating that it was not in the power of the Executive to grant them, and expressing a willingness to cooperate with the debtor government in surveying the entire situation. After such correspondence, Czechoslovakia, Finland, Great Britain, Italy, Latvia, and Lithuania met their contractual obligations, while Belgium, Estonia, France, and Poland made no payment.

In a note of December 11, 1932, after the United States had declined to sanction postponement of the payment due December 15, the British Government, in announcing its decision to make payment of the amount due on December 15, made the following important statement:

> For reasons which have already been placed on record His Majesty's Government are convinced that the system of intergovernmental payments in respect of the war debts, as it existed prior to Mr. Hoover's initiative on June 20, 1931, cannot be revived without disaster. Since it is agreed that the whole subject should be reexamined between the United States and the United Kingdom this fundamental point need not be further stressed here.
>
> In the view of His Majesty's Government therefore the payment to be made on December 15 is not to be regarded as a resumption of the annual payments contemplated by the existing agreement. It is made because there has not been time for discussion with regard to that agreement to take place and because the United States Government have stated that in their opinion such a payment would greatly increase the prospects of a satisfactory approach to the whole question.
>
> His Majesty's Government propose accordingly to treat the payment on December 15 as a capital payment of which account should be taken in any final settlement and they are making arrangements to effect this payment in gold as being in the circumstances the least prejudicial of the methods open to them.
>
> This procedure must obviously be exceptional and abnormal and His Majesty's Government desire to urge upon the United States Government the importance of an early exchange of views with the object of concluding the proposed discussion before June 15 next in order to obviate a general break-down of the existing intergovernmental agreements.

The Secretary of State, Mr. Stimson, replied to this note on the same day that acceptance by the Secretary of the Treasury of funds tendered in payment of the December 15 installment cannot constitute approval of or agreement to any condition or declaration of policy inconsistent with the terms of the agreement inasmuch as the Executive has no power to amend or to alter those terms either directly or by implied commitment.

No payment was made by France December 15, 1932, as the French Chamber of Deputies by a vote on the morning of December 14 refused authorization to make the payment. The resolution voted by the French Chamber at that time invited the French Government to convoke as soon as possible, in agreement with Great Britain and other debtors, a general conference for the purpose of adjusting all international obligations and putting an end to all international transfers for which there is no compensating transaction. The resolution stated that the Chamber, despite legal and economic considerations, would have authorized settlement had the United States been willing to agree in advance to the convening of the conference for these purposes.

This resolution of the French Chamber is to be read in relation with the public statements of policy made by President Hoover and by myself on November 23, 1932. President Hoover said:

> The United States Government from the beginning has taken the position that it would deal with each of the debtor governments separately, as separate and distinct circumstances surrounded each case. Both in the making of the loans and in the subsequent settlements with the different debtors, this policy has been rigidly made clear to every foreign government concerned.

I said:

> I find myself in complete accord with the four principles discussed in the conference between the President and myself yesterday and set forth in a statement which the President has issued today.
>
> These debts were actual loans made under distinct understanding and with the intention that they would be repaid.
>
> In dealing with the debts each government has been and is to be considered individually, and all dealings with each government are independent of dealings with any other debtor government. In no case should we deal with the debtor governments collectively.
>
> Debt settlements made in each case take into consideration the capacity to pay of the individual debtor nations.
>
> The indebtedness of the various European nations to our Government has no relation whatsoever to reparations payments made or owed to them.

Of the $125,000,000 due and payable December 15, 1932, the Treasury received $98,750,000, of which $95,550,000 was the British payment made subsequent to the above correspondence, and the other $3,000,000 represented payments by five other debtor nations. The amounts due from Belgium, Estonia, France, Hungary, and Poland which were not received amounted to $25,000,000, of which $19,260,000 was due and payable by France.

In my statement issued November 23, 1932, I had said:

> I firmly believe in the principle that an individual debtor should at all times have access to the creditor; that he should have opportunity to lay facts and representations before the creditor and that the creditor always should give courteous, sympathetic, and thoughtful consideration to such facts and representations.
>
> This is a rule essential to the preservation of the ordinary relationships of life. It is a basic obligation of civilization. It applies to nations as well as to individuals.
>
> The principle calls for a free access by the debtor to the creditor. Each case should be considered in the light of the conditions and necessities peculiar to the case of each nation concerned.

On January 20, 1933, President Hoover and I agreed upon the following statement:

> The British Government has asked for a discussion of the debts. The incoming administration will be glad to receive their representative early in March for this purpose. It is, of course, necessary to discuss at the same time the world economic problems in which the United States and Great Britain are mutually interested and therefore that representatives should also be sent to discuss ways and means for improving the world situation.

On March 4, 1933, the situation with regard to the indebtedness of other governments to the United States was, in brief, as follows:

France: The French Parliament had refused to permit payment of $19,261,432.50 interest due on the $3,863,650,000 bonds of France owned by the United States.

Great Britain: With respect to the British bonded debt held by the Treasury in the principal amount of $4,368,000,000, Great Britain in meeting a due payment of $30,000,000 principal and $65,550,000 interest had stated that the payment was not to be regarded as a resumption of the annual payments contemplated under the funding agreement of June 19, 1923, but was to be treated, so far as the British Government was concerned, as a capital payment of which account should be taken in any final settlement.

Italy: With respect to the $2,004,900,000 principal amount of bonds of the Italian Government held by the United States Treasury, the Italian Government had paid the sum of $1,245,437 interest due December 15, 1932; but in doing so it referred to a resolution of the Grand Council of Fascism, adopted December 5, 1932, in which "a radical solution of the 'sponging of the slate' type was declared to be necessary for the world's economic recovery."

Czechoslovakia in making a payment of $1,500,000 principal due December 15, 1932, on its debt of $165,000,000 had stated that "this payment constitutes in the utmost self-denial of the Czechoslovak people their final effort to meet the obligation under such extremely unfavorable circumstances."

Belgium had declined to pay $2,125,000 interest due December 15, 1932, on its bonds of $400,680,000 held by the Treasury of the United States, and in doing so had recited circumstances which it stated "prevent it from resuming on December 15 the payments which were suspended by virtue of the agreements made in July 1931", adding, "Belgium is still disposed to collaborate fully in seeking a general settlement of intergovernmental debts and of the other problems arising from the depression."

Poland had not paid the $232,000 principal and $3,070,980 interest due December 15, 1932, on its bond in the principal amount of $206,057,000 held by the Treasury of the United States.

Of the nine other governments whose bonds are held by the Treasury of the United States, Estonia and Hungary had not met payments due December 15, 1932.

Austria is availing itself of a contractual right to postpone payments.

Greece was making only partial payments on its foreign bonded indebtedness, including that held by the United States.

Yugoslavia had declined to sign any Hoover moratorium agreement and had stopped paying.

No payment by Rumania had fallen due since the close of the Hoover moratorium.

Finland, Latvia, and Lithuania were current in their payments.

Although I had informal discussions concerning the British debt with the British Ambassador even before March 4, 1933, and in April there was further discussion of the subject with the Prime Minister of Great Britain and between experts of the two Governments, it was not possible to reach definitive conclusions. On June 13 the British Government gave notice that in the then existing circumstances it was not prepared to make the payment due June 15, 1933, but would make an immediate payment of $10,000,000 as an acknowledgment of the debt pending a final settlement. To this notice reply was made by the Acting Secretary of State, pointing out that it is not within the discretion of the President to reduce or cancel the existing debt owed to the United States nor to alter the schedule of debt payments contained in the existing settlement. At the same time I took occasion to announce that in view of the representations of the British Government, the accompanying acknowledgment of the debt itself and the payment made, I had no personal hesitation in saying that I would not characterize the resultant situation as a default. In view of the suggestion of the expressed desire of the British Government to make representations concerning the debt, I suggested that such representations be made in Washington as soon as convenient.

The Agricultural Adjustment Act, approved May 12, 1933, had authorized the President for a period of 6 months from that date to accept silver in payment of installments due from any foreign government, such silver to be accepted at not to exceed a price of 50 cents an ounce. In the payments due June 15, 1933, the Governments of Great Britain, Czechoslovakia, Finland, Italy, Lithuania, and Rumania took advantage of this offer.

On June 15, 1933, payments of about $144,000,000 were due from foreign governments, the larger amounts being $76,000,000 from Great Britain, almost $41,000,000 from France, and $13,500,000 from Italy. The amounts actually paid into the Treasury were $11,374,000, of which $10,000,000 was paid by Great Britain and $1,000,000 by Italy. Communications were received from most of the debtor governments asking a discussion of the debt question with the United States Government.

In October 1933 representatives of the British Government arrived in Washington and conferred for some weeks with representatives of this Government. These discussions made clear the existing difficulties and the discussions were adjourned.

The British Government then stated that it continued to acknowledge the debt without prejudicing its right again to present the matter of readjustment and that it would express this acknowledgment tangibly by a payment of $7,500,000 on December 15. In announcing this I stated that in view of the representations, of the payment, and of the impossibility of accepting at that time any of the proposals for a readjustment of the debt, I had no personal hesitation in saying that I should not regard the British Government as in default.

On December 15, 1933, there was due and payable by foreign governments on their debt-funding agreements and the Hoover moratorium agreements a total of about $153,000,000. The payments actually received were slightly less than $9,000,000, including $7,500,000 paid by Great Britain, $1,000,000 by Italy, and about $230,000 by Finland.

At the present time Finland remains the only foreign government which has met all payments on its indebtedness to the United States punctually and in full.

It is a simple fact that this matter of the repayment of debts contracted to the United States during and after the World War has gravely complicated our trade and financial relationships with the borrowing nations for many years.

These obligations furnished vital means for the successful conclusion of a war which involved the national existence

of the borrowers, and later for a quicker restoration of their normal life after the war ended.

The money loaned by the United States Government was in turn borrowed by the United States Government from the people of the United States, and our Government in the absence of payment from foreign governments is compelled to raise the shortage by general taxation of its own people in order to pay off the original Liberty bonds and the later refunding bonds.

It is for these reasons that the American people have felt that their debtors were called upon to make a determined effort to discharge these obligations. The American people would not be disposed to place an impossible burden upon their debtors, but are nevertheless in a just position to ask that substantial sacrifices be made to meet these debts.

We shall continue to expect the debtors on their part to show full understanding of the American attitude on this debt question. The people of the debtor nations will also bear in mind the fact that the American people are certain to be swayed by the use which debtor countries make of their available resources—whether such resources would be applied for the purposes of recovery as well as for reasonable payment on the debt owed to the citizens of the United States, or for purposes of unproductive nationalistic expenditure or like purposes.

In presenting this report to you I suggest that, in view of all existing circumstances, no legislation at this session of the Congress is either necessary or advisable.

I can only repeat that I have made it clear to the debtor nations again and again that "the indebtedness to our Government has no relation whatsoever to reparations payments made or owed to them", and that each individual nation has full and free opportunity individually to discuss its problem with the United States.

We are using every means to persuade each debtor nation as to the sacredness of the obligation and also to assure them of our willingness, if they should so request, to discuss frankly and fully the special circumstances relating to means and method of payment.

Recognizing that the final power lies with the Congress, I shall keep the Congress informed from time to time and make such new recommendations as may later seem advisable.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *June 1, 1934.*

The PRESIDING OFFICER. The question before the Senate is as to the reference of the message from the President of the United States, which has been read.

Mr. HARRISON. I think that the message ought to be referred to the Committee on Finance.

Mr. JOHNSON. The Senator refers to the President's debt message?

Mr. HARRISON. Yes.

Mr. JOHNSON. I think it ought to be referred to the Committee on Foreign Relations. Does not the Senator from Mississippi think so?

Mr. HARRISON. Let the message rest on the table for the present. All matters with relation to the foreign debts, however, went to the Finance Committee.

Mr. JOHNSON. I think the Senator is right as to that. The Finance Committee did have charge of matters with reference to the foreign debts.

Mr. HARRISON. The Committee on Finance had charge of the debt-funding agreements.

Mr. JOHNSON. Let us talk of it for a moment subsequently and let it remain in abeyance for the time being.

Mr. HARRISON. Let the message remain on the table.

The PRESIDING OFFICER. The message will lie on the table.

RECIPROCAL TARIFF AGREEMENTS

The Senate resumed the consideration of the bill (H.R. 8687) to amend the Tariff Act of 1930.

Mr. ROBINSON of Arkansas. Mr. President, the reciprocal tariff bill has been before the Senate for more than 2 weeks. It has been fully discussed. We are proceeding now under a limitation on debate, entered into by unanimous consent, which many Senators hope will bring the issues involved in the bill to a speedy conclusion.

It is thought that there is a possibility of voting on the passage of the bill before the close of the present day, although in order to do that it may be necessary to remain in session much later than usual. Certainly if that cannot be done the Senate will be asked to stay in session tomorrow and proceed with the measure.

It does not seem to me either necessary or desirable that I should enter into a full discussion of the bill, for the reason that others have presented clearly and forcefully, both of the primary controversies, that relating to constitutionality and that relating to public policy.

In the hearings, which are available for use of Senators, is a statement and a brief submitted by the Assistant Secretary of State, Mr. Sayre, which, in my opinion, foreclose all questions which have been raised or which are likely to be raised touching the power of the Congress under the Constitution to pass the pending legislation.

The statement and the brief referred to embrace the precedents, from the act of 1794, in which the Executive was given authority to place an embargo on all commerce and to rescind it, down through all the successive years. In many of the decades authority was given for the execution of Executive agreements affecting the commerce of the United States in nowise distinguishable, from a legal standpoint, from those which are authorized to be entered into under the terms of the pending bill.

In the cases which are cited in the statement and brief to which I have referred in support of the constitutionality of the measure, it is made to appear that every question involving the legality of the act, or the power of the Congress to pass it, has been resolved, and has been resolved in cases so closely analogous to that now before the bar of the Senate that it would be presuming upon the time and upon the patience of Senators to extend the discussion on that phase of the subject.

I recall that one of the great lawyers in this body, one whom we all love and respect, the Senator from Idaho [Mr. BORAH], in a speech which rang with earnestness and eloquence, a speech which was quoted in the press and which has been referred to here since as authority, took the position that, since the Constitution gives to the President the power to enter into treaties with foreign nations by and with the advice and consent of the Senate, and since a treaty is a contract or a compact, there exists no other constitutional way in which the Government of the United States may make a contract with a foreign government.

The statement, at the time it was made, was uttered with such fervor and enthusiasm that it was misleading. As a matter of fact, Mr. President, in the arguments of the Senator from Mississippi [Mr. HARRISON] and the Senator from Georgia [Mr. GEORGE] made yesterday, and in other addresses to which the Senate has listened, it has been pointed out that there are at least two ways in which the United States may contract with a foreign government or with foreign governments. One is by the exercise of the treaty-making power; the other is by the exercise of the power to enter into executive agreements.

It has been made clear here, and need not be reaffirmed, that the basis of an executive agreement is authority of law; that no executive agreement may be entered into unless such agreement has been authorized by act of the Congress. I lay down the proposition of law, which has not heretofore been asserted, but which, in my judgment, follows from the authorities which have been cited, that when an executive agreement is entered into by the President under a valid act of the Congress, it is just as much an exercise of the legislative power as any legislation Congress can pass, and it is no more in violation of the legislative power than is the enactment of a joint resolution or the adoption of a concurrent resolution within the jurisdiction of the Congress.

So that it is unsound in law to assert that the United States cannot make a contract with a foreign government except by the exercise of the treaty-making power, and the complete legal answer to the assertion that the pending bill constitutes an unwarranted delegation of the treaty-making power is that it does not presume or assume to exercise the treaty-making power in any particular. It does involve the exercise of the legislative power, and only the legislative power.

The Government has the choice of making reciprocal trade agreements through the employment of the treaty-making power, and it has also the choice of authorizing the Executive to enter into reciprocal trade agreements under the authority of an act of Congress.

In my judgment, that statement of the legal proposition is so clear that it need not be elaborated. There are two ways recognized in the Constitution of the United States, and by the precedents in which contracts may be made with foreign governments, and one of them is just as valid as the other, and no one can correctly say that the employment of the one constitutes a violation of the other.

I proceed now to a discussion of some of the questions which are involved in the policy of the legislation.

Senators have chided those on this side of the Chamber who opposed the enactment of the flexible tariff provision of the act of 1922, and of subsequent acts, on the theory that there is an inconsistency in opposing that act and in favoring the pending bill. In other addresses it has been stated with aggressive earnestness that the enactment of the pending bill would be a violation of the Democratic platform of 1932. I propose to answer both those assertions.

The flexible-tariff provision, as has been ably stated by the Senator from Massachusetts [Mr. WALSH], was an effort permanently to change the policy, under the Constitution, of enacting tariff laws. It was an effort to give the Executive, when advised by an Executive commission, the right to make rates within certain limitations. It did not involve in any sense the primary purpose carried in the pending legislation. This proposed legislation does not contemplate a permanent policy in tariff making different from that which has prevailed throughout the past. Anyone who is able to read must have enough intelligence to know that fact. What the pending legislation does—and I assert it confidently and with great earnestness—is to provide a method by which the foreign commerce of the United States may be revived and extended.

The flexible-tariff provision of the law is not adapted to that end, was not devised for that purpose, has no application to the objects contemplated by this measure. I have made that so plain that even the opponents of this proposed legislation will recognize the conclusion to be unassailable.

The purpose of the pending measure, its outstanding, dominating, and controlling purpose, is to revive the failing commerce of the United States. It is not to destroy or to injure agriculture, and I say to those who sit on the other side of the Chamber who are making every possible effort to discredit the purpose of the proponents of the pending legislation that if the farmers of the country and the people of the country generally are to be compelled to rely for a revival of commerce on the policies which the opponents of the pending legislation have put into force respecting the tariff, then we will go on down, down, down into a bottomless pit. Disaster is threatened, is imminent.

Mr. President, what has been the effect of the tariff policy, of the commercial policy, which has prevailed in the United States and which those on the other side are so anxious to perpetuate? The effect has been to destroy or threaten the destruction of agriculture and other forms of industry.

Time and again during this debate the Senator from Mississippi and others have placed in the RECORD the figures showing that during the last few years—certainly since 1928—the foreign commerce of the United States has been diminished out of proportion to the reduction which has taken place in the foreign commerce of the principal competing nations.

Senators who are so anxious to adopt an amendment which will prevent the President from entering into reciprocal trade agreements affecting any agricultural or horticultural commodity should remember that the tariff has never been effective for the protection of commodities which are produced in large quantities for export. I challenge any Senator here to dispute the statement. We all know that after very high tariff rates were placed on certain agricultural commodities, including wheat, that wheat in the United States sold at times for less than the amount of the tariff. Under the law of economics which has prevailed from the beginning of time, commodities which are produced for foreign export, produced in large surpluses that cannot be disposed of in the domestic markets, do not derive great benefit from any form of protection that has ever been devised.

It was in recognition of this fact, while high tariffs were in the law and prevailed, that we adopted a policy of attempting by automatic and somewhat arbitrary means to raise the domestic prices, prices to our own consumers, of agricultural products, recognizing that the high tariffs imposed by the tariff law on those commodities are not effective for the protection of the commodities.

Mr. COSTIGAN. Mr. President——

The PRESIDING OFFICER (Mr. POPE in the chair). Does the Senator from Arkansas yield to the Senator from Colorado?

Mr. ROBINSON of Arkansas. I yield.

Mr. COSTIGAN. In confirmation of what the distinguished Senator from Arkansas has just stated about wheat, I recall that in the fall of 1931, in Chicago, wheat was selling for from 47 to 50 cents a bushel and Colorado farmers were receiving less than 40 cents a bushel, with a tariff duty on wheat of 42 cents a bushel.

Mr. ROBINSON of Arkansas. The instance cited by the Senator confirms the statement I have just made, and I thank him.

At my request I have been supplied with certain figures which I think are further illustrative of this proposition. I am going to place in the RECORD a table which shows the index numbers of farm prices by groups. This table includes grains, fruits and vegetables, meat animals, dairy products, poultry products, cotton and cottonseed. I shall not take the time, Mr. President, to review the table in complete detail. It shows, assuming the base of 100 in 1923 to 1925, that for all groups comprised the lowest point reached was in February 1933, when the index figure was only 35—a little more than one-third of what it was at the end of 1925.

As to grains, beginning again in 1925 at the base figure 100, the price in December 1932 was 25, or one-fourth of what it was in 1925.

With respect to fruits and vegetables, the price, 100 in 1925, fell to 41 in November 1932 and February 1933.

With respect to meat animals, the price has constantly declined from 100 to the lowest figure in January 1933.

Dairy products have declined from 100 to 42. They have been declining constantly through the intervening years down to 42 in March and October 1933.

Poultry products had a similar decline, except that they fell to the low index number of 36 in 1933.

Cotton and cottonseed beginning at 100 in 1925 fell to 18 in June 1932.

Mr. President, the unanswerable conclusion from these figures is that the tariffs which have been imposed have not been effective in maintaining the prices of the commodities referred to.

Mr. President, I ask unanimous consent to have placed in the RECORD the table of index numbers of farm prices by groups to which I have referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

The table is as follows:

Index numbers of farm prices, by groups
(1923–25=100)

Yearly average	All groups combined	Grains	Fruits and vegetables	Meat animals	Dairy products	Poultry products	Cotton and cottonseed
1923–25	100	100	100	100	100	100	100
1926–30	95	92	112	123	96	97	65
1931	58	47	70	79	67	64	31
1932	41	33	51	53	50	53	23
1933	46	48	57	50	49	49	32
Lowest month	35	[1] 25	[2] 41	[3] 43	[4] 42	[6] 36	[7] 18

[1] February 1933.
[2] December 1932.
[3] November 1932 and February 1933.
[4] January 1933.
[6] March and April 1933.
[6] March 1933.
[7] June 1932.

Source: U.S. Department of Agriculture (original). Secondary: Statistical Abstract, 1933. Last 2 rows of table computed from data in Survey of Current Business.

Mr. WALSH. Mr. President, will the Senator yield?

Mr. ROBINSON of Arkansas. I yield.

Mr. WALSH. The table which the Senator has presented proves conclusively two things: First, that during this depression the exportations of agricultural products have decreased in volume more than have the exportations of manufactured articles and, secondly, that the prices of agricultural products have declined in a greater percentage than have the prices of manufactured products.

Mr. ROBINSON of Arkansas. Mr. President, that is the next thought I am coming to. Not only had the prices of the agricultural products gone down through these years to a very low point, only beginning to rise after the administration price-restoration measures or increased-purchasing-power measures were enacted and put into effect, but it is also shown by the record which I am presenting to the Senate that the prices received for farm products have declined more than have prices paid by farmers for commodities used in production or for personal needs.

In 1932 the farmer's products brought only 41 percent as much as they did on the average in 1923 to 1925. The farmer continued to pay 70 percent of the previous level for the commodities which he had to purchase. And wages which he had to pay in order to hire farm labor had fallen to 51 percent. The commodities which he had to buy for use in farm production had fallen in comparison to only 74 percent.

I ask unanimous consent to have printed in the RECORD a table which I believe is illuminating as to these assertions of the index numbers of prices received and paid by farmers, 1923 to 1925 being taken as the base period at 100. These figures are taken from the Statistical Abstract of the United States, 1933.

The PRESIDING OFFICER. Without objection, it is so ordered.

The table is as follows:

Index numbers of prices received and paid by farmers
(1923–25=100)

Yearly average	Prices received for farm products	Prices paid by farmers for commodities bought			Wages paid to hired farm labor
		Total	For living	For production	
1923–25	100	100	100	100	100
1929	99	100	98	101	102
1931	58	81	79	84	69
1932	41	70	67	74	51
December 1932	37	68	64	72	44

Mr. ROBINSON of Arkansas. The trend of agriculture is further shown by the drastic decline in the export of agricultural commodities between 1928 and 1933. Mark you now, while these prices were going down at an astonishing rate, and while the prices of manufactured products necessary for production and for living necessities among farmers were going down slower than the agricultural products, we find a most astonishing and illuminating comparison. Between the years 1928 to 1933 exports of wheat declined 96 percent in value and 91.7 percent in volume.

Barley declined 92.5 percent in value and 85.7 percent in quantity.

Exports of corn declined 90 percent in value and 79.2 percent in volume.

Wheat exports declined 81.3 percent in value and 66.6 percent in quantity.

Condensed, evaporated, and dried milk declined 79.5 percent in value and 67.5 percent in quantity.

Lard fell to less than one-third of its former value and to less than one-fourth of its former volume in our export trade, while hams and shoulders declined five-eighths in value and three-eighths in volume.

At the same time exports of manufactured cotton were declining from $920,000,000 per annum to less than $400,000,000.

Exports of leaf tobacco declined from $164,000,000 to $18,000,000.

Yet Senators have the nerve to stand on the floor of the Senate and ask to perpetuate a system that has not only wrecked industry but has destroyed or threatened the destruction of agriculture.

Another statement which has been made is that in espousing this bill Members on this side of the aisle repudiate the Democratic platform of 1932. I propose to read that platform and to show that only in the distorted imagination of the visionary can such a contention be made. The language of the platform is:

> We advocate a competitive tariff for revenue, with a fact-finding tariff commission free from Executive interference.

During the course of this debate, Senators, ignorant of the history or willfully perverting the meaning of that language, have given it an application which intelligence will not justify. It will be remembered that the principal criticism of the way in which the flexible-tariff provision worked was that the President attempted to control the investigations and findings of the Tariff Commission, and when a commissioner refused to subordinate his judgment to that of the Executive who appointed him, the then President required him to place in his hands a resignation, to be held as a threat over the commissioner, to be accepted whenever the President became offended at the decision of the Commission. It was to repudiate influences such as that, forces which came from the appointing power, that the provision of the platform quoted was adopted. I justify that statement not only in the history of the Tariff Commission itself but I justify it also in the following language from the platform of 1932. Listen—

> reciprocal tariff agreements with other nations.

Not only is this proposed legislation not discountenanced by the Democratic platform but it is expressly approved and commended by that platform in the language just cited. It is entirely true that the platform does not state how the reciprocal trade agreements are to be entered into. It does not say that they shall be entered into by the Executive under an act of Congress. Neither does it say that they shall be entered into through the treaty-making process. It leaves that subject entirely open; and the Congress, in the passage of this bill, has just as much right under that platform to employ the agency of the Chief Executive to bring about such agreements as it has to employ the treaty-making power. No intelligent man will hereafter take the floor and say that the Democratic platform committed the members of the Democratic Party against the enactment of this proposed legislation. It not only did not do that but it committed them in favor of such legislation.

Mr. BARKLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arkansas yield to the Senator from Kentucky?

Mr. ROBINSON of Arkansas. I yield to the Senator.

Mr. BARKLEY. How else could the Democratic Party carry out its platform except by setting up an agency by which such trade agreements might be negotiated?

Mr. ROBINSON of Arkansas. I was just coming to that point. I thank the Senator. His mind is logical, and evidently he is following my argument with close attention.

If trade agreements are to be entered into and made effective in the early future they must be negotiated in some way similar to that provided for in this bill. I challenge denial of that assertion.

What is the history of the cases in which the treaty-making power has been resorted to for the making of trade agreements? I do not recall more than a single instance in which such trade agreements were ever carried into effect through ratification. In all other cases, in numerous cases, they have failed of any practical result because not ratified; and now, in a time of national emergency, when the trade and commerce of the United States have been practically destroyed by an unjust policy, when there is necessity for reviving that trade and commerce, we are told that we must resort to a process of doing it which we know can rarely succeed. I ask you, as intelligent men, does that argument appeal to you? No. If you want the United States, its merchants and its shippers, to have a fair chance with those who compete with them in foreign trade, you must employ some practical means of negotiating and giving effect to these agreements; and if you require that all of them shall be brought here to the Senate for ratification, the emergency will have passed, our commerce will have disappeared from the seas, and the suffering of our people will have been intensified by reason of our own foolish policy before ratification can be forced.

We take advantage, I trust, from the lessons of history in delegating this lawful authority, shown to be lawful by all the authority and precedents. We are not doing an act detrimental to the commerce of this country, detrimental to the industries of the country. On the contrary, we are, in good faith, attempting to do something to revive them, and when those who criticize this bill say they will not vote for it, I ask them, are they going on pursuing the same policy that has wrecked the commerce and the safety and the prosperity of our people?

There is not any power in this bill that is granted except for a temporary period. There is not any power in this bill that the Congress cannot quickly take back if the Executive should mistake or abuse his authority.

If you enter into negotiations in any way, you must trust someone to make the negotiations. You cannot make them. I believe that there is none better than the agency that this bill chooses, the President, who has great responsibility for the enforcement of the laws of the country and for the success of the policies which his administration puts into effect.

Gentlemen of the Senate, when we shall pass this bill we will not have put behind us all the serious problems and difficulties which this Nation must meet, but in passing this bill we are doing a practical thing: we are placing him who is in charge, under the Constitution, of our foreign relations, on a footing of equality with the diplomats of other powers, who are authorized, in most instances, to enter into arrangements similar to those provided for in this bill. I feel that the history of our time, the conditions which surround us, and the results which have been obtained by other nations which have increased their commerce by the exercise of power similar to that which we propose to confer on the Executive under this legislation, all justify us in passing this measure. I thank the Senate.

FARMERS' TARIFF RIGHTS

Mr. LONG. Mr. President, I shall speak on several amendments before we get through. I want to discuss all these amendments.

Mr. President, I was not aware of the exact purport of the Johnson amendment. I was familiar with the Overton amendment. I had understood the Johnson amendment and the Overton amendment were about the same, but I understand now that they are not. Upon a careful reading of them my attention was called to the difference between the two amendments, and there is rather a striking difference. The Johnson amendment provides:

No foreign-trade agreement shall be entered into under the provisions of this act with respect to any agricultural or horticultural product, including the commercial articles or materials made therefrom by usual first processings.

There is a contention made—and I can well see how it could be a valid contention—that this would prevent agreements with regard to agricultural commodities at all. That is satisfactory from my point of view, being against the bill and all its provisions; but, of course, I can well see that those inclined to vote for some of the provisions of the bill would not want to have it that stringent.

The Fletcher amendment is as follows:

On page 3, lines 13 and 14, after the word "proclamation", insert a colon and the following:

"*Provided further*, That no agreement shall be made with any foreign government whereby tariffs or import duties on products of agriculture or horticulture shall be reduced below an amount necessary to equalize the difference in cost of production of such products in the United States with the cost of production in such foreign countries."

In other words, the Fletcher amendment would allow agricultural products to be the subject of negotiation, but in arriving at a basis of trade, under the Fletcher amendment there could not be any foreign imports of agricultural or horticultural products unless there were a tariff to represent the difference in the cost of producing those commodities in the foreign countries and in this country.

We have had many theories about agriculture. We have had a lot of talk here from Senators representing the manufacturing States about agriculture and its need to be restored. But the first thing with which we are faced here is a proposal to take away from the agricultural element the little tariff benefits they have fought for 50 years to get. We have had protective tariffs on manufactured articles since 1789. The first tariff, I believe, was signed July 4, 1789 or 1790, by President George Washington. But agricultural commodities had not been included in any tariff until recently.

For instance, only a few days ago we conducted a fight here, lasting over nearly a week's time, to give protection to the vegetable oil raised in America as against the foreign vegetable oil raised in the Philippine Islands and tropical countries. Over the opposition of the President of the United States, over the opposition of a letter read by the Senator from Mississippi [Mr. HARRISON] from the President of the United States, we proceeded here to adopt a tariff against the vegetable oil coming from the Philippine Islands, and the copra out of which it is made. Now we have before us a declaration made by the party, and by the candidate of the party, on vegetable commodities and agricultural commodities.

President Roosevelt said on October 26, 1932:

Of course it is absurd to talk of lowering tariff duties on farm products. I declared that all prosperity in the broader sense springs from the soil.

There is not any question that the chief drive made in this tariff bill, just as my friend from Tennessee [Mr. MCKELLAR] said the other day, is against sugar. Sugar is the entering wedge of all the free-trade and supposed-to-be tariff-for-revenue-only Democrats.

As my friend from Tennessee says, one of the main things he hopes will be accomplished by the passage of this bill is the lowering of the tariff on sugar; and the Senator from Kentucky joins in and says that sugar is the chief commodity that they intend to attack.

Let it be understood that when the Senators from the beet-growing States like Utah and Colorado and Michigan, and all the Middle Western States that are growing beets, vote for this bill, giving the right, as the Senator from Tennessee says, to wipe out the differential existing on sugar, they have been warned in advance of what the purpose is. They know now, unless somebody here is wrong, that this drive is being made in order to take the tariff off sugar. I say it because no one would object to an amendment taking the President of the United States at his word, and at least guaranteeing to the farmers of this country, to the growers of vegetable products out of which vegetable oils are made and to the growers of beets and cane out of which sugar is made, a tariff representing the difference in cost of producing those articles in the foreign countries and in this country,

unless he wanted to blind his eyes and stand for a consequence which the people have been assured would not follow.

I read again from the President's words. He said:

My distinguished opponent—

He was talking about Mr. Hoover at the time—

is declaring in his speeches that I have proposed to injure or destroy the farmer's markets by reducing the tariff on products of the farm. That is silly.

This is Mr. Roosevelt talking. He says it is silly to talk about reducing the tariff on products of the farm.

Reading further:

Of course, I have made no such proposal, nor can any speech or statement I have made be so construed. * * * Of course, it is absurd to talk of lowering tariff duties on farm products. * * * I promised to endeavor to restore the purchasing power of the farm dollar by making the tariff effective for agriculture and raising the price of farmer's products.

Said the President of the United States, "I promised not to reduce the tariff duties on farm products. I promised to raise them." That is what we were promised.

What does the promise mean? We have here a farm amendment undertaking not to do all that has been promised by the party, not to keep all the word of the President, because that would be against the sense of the Senate. Maybe the Senate would not want to have anything put in here that would make somebody keep his word. Maybe that would not be right. After having listened to the splendid speeches made here today, I am thoroughly converted to the doctrine that United States Senators certainly ought to be allowed not to keep their same viewpoint if moonlight has passed over the country between the time they made the promise and the time they come to perform it. I desire to announce my conversion to that principle for the rest of my colleagues. They have convinced me that when they promise something, and say they will do something, they ought not to be held to their word, if they see matters to change. The Senator from Illinois [Mr. LEWIS] has convinced me of that; the Senator from Massachusetts [Mr. WALSH] has convinced me of that; and the Senators from Georgia [Mr. GEORGE] and from Tennessee [Mr. MCKELLAR] have driven the nail up to the hilt, that nobody ought to be made to keep his word on campaign promises if he does not want to do it, if something happens in the meantime.

So I do not want to be understood as advocating the radical doctrine that United States Senators and members of the Democratic Party ought to be made to be consistent on what they said last year as compared with this year, or last month with what they say this month; but what I am trying to get done under this amendment is that if we cannot do what the President said, and if we cannot adhere to what the party said, at least we can permit the poor American farmer to retain what little advantage he has so far been able to get from the agricultural tariffs in his favor. At least we will not take away from the cotton farmer and from the beet farmer and from the cane farmer and from various other farmers, such as the apple farmers, the grape farmers, and all of those, the benefits they have managed to get, which we not only told them they were going to retain, but which we told them were going to be increased in their favor.

We said to the farmer of this country, "We are not going to take away the tariff that you have. It would be silly to do it. It would be absurd to do it." We said to the farmer, "It is ridiculous, it is preposterous, it is false, to assert that the Democratic Party will reduce one single tariff item that protects an agricultural product in America today." Now we are asking, if that promise means anything at all, that we shall write into this bill the Fletcher amendment, at least, if the Senate shall not adopt the Johnson amendment, stipulating—

That no agreement shall be made with any foreign government whereby tariffs or import duties on products of agriculture or horticulture shall be reduced below an amount necessary to equalize the difference in cost of production of such products in the United States with the cost of production in such foreign countries.

That is all the Fletcher amendment provides.

Mr. DAVIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Pennsylvania?

Mr. LONG. I yield to the Senator from Pennsylvania.

Mr. DAVIS. Why not apply the same principle to industry as to agriculture?

Mr. LONG. If the Senator will offer such an amendment for industry, I shall vote for it.

Mr. DAVIS. The Senator from Pennsylvania has such an amendment pending.

Mr. LONG. I am going to vote for the Senator's amendment, and I think we promised that. However, I represent an agricultural State. My people are farmers, and it is only natural that I should try to speak from the standpoint of something that I know something about. True, it has been the custom lately to hire somebody to run agriculture who never saw a farm, but in this particular instance I am varying the custom; and as a farm product, since I come from the farm, I am undertaking to espouse the promises made to the farmer. I have no doubt that my friend from Pennsylvania will be able to find where we made just as many promises, perhaps, to some of the industries of the country. I have no doubt that we did make some such promises in generalities, at least; but I am now talking as a man representing a farming State, representing a State that had promises, representing a State that had promises in absolute farm words that the farmers of Louisiana and the farmers of Mississippi and the farmers of Arkansas and the farmers of Colorado and of Michigan and of California should not have one single tariff benefit taken away from them, but that, on the contrary, the tariff should be made effective, and the prices of these farm products raised rather than lowered as a result of the manipulations of the tariff.

Now we come here today faced with the little, simple proposition that we are going to restore prosperity—I do not know what the word "prosperity" means—we are going to bring prosperity back to the farmer. My friend from Illinois [Mr. LEWIS] the other day on the floor invited us to look at all the beneficial measures that had been enacted, that we said were unconstitutional, that had to be passed for the benefit of the farmer. I call on anybody now to tell me anything that has been done by this Congress or by the Agricultural Adjustment Association, or whatever that name is—I only know them by the letters—I call on anyone to tell me anything that has been done that has helped the cotton farmer or the cane farmer or the beet farmer. You may show that his price went up, but I can show you that the purchasing power of that crop was less than the purchasing power of the same crop the year before. You may take the cotton crop and show that the price of cotton went up, and yet I can show you that a bale of cotton will buy only one-half as many pairs of overalls as the same bale of cotton would have bought before these letters were put on top of it. I can prove that before you went into the first reader and took the alphabet out of it and loaded it on top of everything else, the cotton and cane and beet farmers got more for the products they raised, and paid less for the products they had to consume, than is the case under these pretensions.

What are these things that have done so much for anybody—the N.R.A.'s, and the A.A.A.'s, and various and sundry other lettered codes? I do not know of them. We are told that they have been held to be constitutional. Who held them to be constitutional? The Supreme Court of the United States has not yet held the A.A.A. to be constitutional. The Supreme Court of the United States has not yet held the N.R.A. to be constitutional. The Supreme Court of the United States has not yet held most of this other business to be constitutional. The Supreme Court of the United States might do it, and it has the power to hold anything it wants to hold constitutional; but be it said to its credit that as yet it has not finally done so.

Let us get away from the Court, however. Let us deal with promises.

Somebody said the other day—I believe it was the Senator from Arkansas [Mr. ROBINSON]—that, as he understood, the reciprocal tariff agreements were not so closely bound under the President's promises and the promises of the party.

Let us read it. I read from a speech by Mr. Roosevelt on September 15, 1932, and I read from another speech on September 30, 1932. Let us take the last first. Said Mr. Roosevelt:

> What does the Democratic Party propose to do in the premises? The platform declares in favor of a competitive tariff, which means one which will put the American producers on a market equality with their foreign competitors—one that equalizes the difference in the cost of production—not a prohibitory tariff back of which domestic producers may combine to practice extortion of the American public.
>
> But how is reduction to be accomplished? By international negotiation as the first and most desirable method, in view of present world conditions, by consenting to reduce to some extent some of our duties in order to secure a lowering of foreign walls that a larger measure of our surplus may be admitted abroad.
>
> Next the Democrats propose to accomplish the necessary reductions through the agency of the Tariff Commission.

"Through the agency of the Tariff Commission" these reciprocal trade agreements were to be made, and through that agency of the Tariff Commission, by which it was promised these reciprocal trade agreements should be made, there was assurance that the tariff would be so adjusted as to equalize the difference between the costs of production at home and abroad.

Said the Democratic tariff plank of 1932:

> We advocate a competitive tariff for revenue, with a fact-finding tariff commission free from Executive interference.

Now let us get back to the farmer. I do not care how anyone votes on the industrial part of the bill. So far as my people are concerned, I will vote to protect those people because the party promised it. I will vote for every promise the party made, because I was in the convention which wrote the platform, and I will vote for the party promises. I will vote to keep the word of the Democratic Party.

I understand that someone has said that those of us over here who are fighting for the Democratic platform ought to move over to the Republican side. Actually, some of my colleagues on this side of the Chamber have said to me that I was in league with the Republicans in this tariff fight. In other words, because I still advocate the carrying out of the promises made by the Democratic Party in 1932, because I still stand by the words the President uttered to the people of this country, I ought to move over to the other side and be with the Republicans, according to some of my colleagues on this side.

If that is so, what is the definition of a Democrat? If those of us over here who are still fighting for what we promised the people, still fighting for carrying out the words the President uttered to the people, are to be pronounced changed, what is the definition of these Democrats who are to be left over here when we go over on the other side? A Democrat would be defined something like this in the dictionary:

> Democrat: One who can go before the people and raise hell about something, and say that it is all wrong, and then come back 1 year later and say that it is all right; that he is going to do it, and whoever does not change over from right to wrong and go with him ought to move out of the family.

That will be about how "Democrat" would be defined if those of us over here have to move over to the other side of the Chamber.

Let us read the words of the President's addresses a little. It is amusing to notice just how gentlemen get away from these statements made during the campaign. My friend from over in Massachusetts made a fine farm speech today. The leading speech here against the farmer being given the protection he was promised was made by the distinguished senior Senator from Massachusetts [Mr. WALSH]. This gentleman from the shoe-manufacturing center of Boston made a remarkable speech as to why the farmer would be hurt if he were protected.

Beware of the Greeks bringing gifts in this particular case. I think I can imagine them bringing in the sugars from the South Sea; I think I can see the copra and the oils from the Orient going into terms of shoes made in Boston, Mass.; and it does not look good to me. I do not seem to get any particular benefit out of this kind of guaranties made by my friend from Boston, Mass.

My friend from Boston says that this promise was made, but that an emergency has arisen which causes us to change the promise. When did the emergency arise? Did we not write this platform in 1932, and did not the depression come on in 1929, and was it not on us in 1932? If it had not been on in 1932, we might not have elected a Democratic President. But the reason why we elected a Democratic President in 1932 was that there was a depression, and we had prescribed a platform which we said would get the people out of the depression. So we said to the people, "We will give you a tariff which will protect you to the extent of the difference in the cost of production at home and abroad."

We said to the farmer, "Fear not", like the old song we used to hear; "fear not; nothing is going to happen to you. We guarantee you farmers—because you have a large percent of the votes of the United States—fear not", said we to the farmers; "fear not, Mr. Farmer; you have the votes, and we are not going to cut any tariffs on you, because with that vote we can win whether we get any of the balance of the vote or not. Fear not; we are not only not going to cut the Republican tariffs you enjoy, but we are going to go the Republicans one better, and increase the tariffs on farm products."

Mr. President, that was the promise uttered from the lips of the candidate of the Democratic Party in the latter part of 1932.

Now it is said that an emergency has arisen. In just a moment I shall take up this great document that was signed by the 9 or 10 Democrats who were members of the Finance Committee and show what a great emergency arose to justify them in getting off the dotted line and crawling over on the other side of the field.

If these gentlemen are still in the Senate, they belong over on the other side of the aisle. They have no business over here any longer, so far as concerns this tariff question, or the flexible-tariff provision enacted into the law at least as late as 1930. No Senator who signed that document which came out of the Democratic Finance Committe membership has any right now to say that he is any longer a Democrat on the tariff question. Any man who has his name on that dotted line, warning the country and calling upon the people to engage in a general uprising against the encroachment of the Executive in legislative government, has any right ever to argue the tariff or any other fundamental question with a Democrat.

To get back to these promises that were made, said President Roosevelt on September 15, 1932:

> I seek to give to that portion of the crop consumed in the United States a benefit equivalent to a tariff sufficient to give your farmers an adequate price.

Said the President of the United States, "I seek to give to you farmers a differential sufficient to make up the difference so as to give the farmers a reasonable price."

Listen to this. Said Mr. Franklin D. Roosevelt:

> I want now to state what seems to be the specifications upon which most of the reasonable leaders of agriculture have agreed, and to express here and now my whole-hearted accord with these specifications.
>
> First, the plan must provide for the producer of staple surplus commodities, such as wheat, cotton, corn (in the form of hogs), and tobacco, a tariff benefit over world prices which is equivalent to the benefit given by the tariff to industrial products.

If that is true, Mr. President, we would receive a material increase in the tariffs prevailing at this time on agricultural commodities, as was shown by the Senator from Idaho the other day.

One week later Mr. Roosevelt said:

I have called for genuine governmental efforts to devise means by which the farmer may get the benefit of the equivalent of a tariff protection similar to that which industry has.

Said he a day or two later:

The platform declares in favor of a competitive tariff, which means one which will put the American producers on a market equality with their foreign competitors—one that equalizes the difference in the cost of production.

Those were the words of the President; not a prohibitive tariff, he said, but one which equalizes the difference in the costs of production.

Mr. President, perhaps some people would feel that this promise having been made by the Democratic Party, this amendment ought to come from the Democratic Party in order to keep its word, and for that reason I shall be glad to vote for the Fletcher amendment.

The Senator from Florida [Mr. FLETCHER] is one of the two senior Senators on this side of the Chamber. I mean by "senior" that he is in point of service the oldest Member on this side of the Chamber, with the exception of the Senator from South Carolina [Mr. SMITH], who has been here the same number of years. The Senator from South Carolina and the Senator from Florida both represent agricultural States. If we are allowed an amendment which has been proposed here, which proposes to protect agriculture, not in keeping entirely with the promises but half in keeping, we will have no further objection to the provisions of this bill so far as they affect our communities alone.

I will read again from the platform:

We believe that a party platform is a covenant with the people, to be faithfully kept by the party when intrusted with power, and that the people are entitled to know in plain words the terms of the contract to which they are asked to subscribe.

Had they been asked to subscribe to anything? I have here, Mr. President, something else with which we went before the people and we got them to act upon. I have here a substitute bill which I have offered. I have offered as a substitute to this pending monstrosity the bill which was introduced here in 1932 by the Senator from Mississippi [Mr. HARRISON] and reported out of the Finance Committee, passed by the Senate, passed by the House, and vetoed by the President of the United States. I have here in the form of a substitute the bill offered by the Senator from Mississippi.

Here is what we went to the people on. Do not let any one beguile you. Here is what the Democratic membership of the Finance Committee meant, and here is what that Democratic membership of the Finance Committee proposed. I have some respect for the opinion of every man who stands out and says, "I blew hot last year, and I am blowing cold this year, and may blow hot again this year." I have respect for the man who says, "Oh, I said it, and I am not going to do it," or "I am going to do just exactly the opposite." I can understand that kind of a man. That is why I understand some of my colleagues so well. I have respect for them. That is why I like them so well.

Ninety-five percent of the Membership who voted for this bill which I have here in my hand simply say now: "Well, that is what I stood for, and that is what I said we ought to do, and that is what I voted we ought to do, but now I am voting for something else, and I am not going to open my mouth and say anything about it."

Of course, we have our linguists, we have our swordsmen of language, we have our swordsmen of party discipline. I mean by "swordsmen" the men who can make so tender a cleavage as to make a thing fall on one side one time and fall on the other side the next time.

Take my distinguished friend from Illinois [Mr. LEWIS], who spoke here the other day. I am not responsible for the fact that he is not here now. Perhaps if he cares to, he can read what I say. Let us take what he said here the other day. He undertook to say that there was not any violation of the promise of the party at all. I think he did not know any better than that. I think that is what he believes, because it is not very hard in this political life to get to believe one thing and then try to convince everyone that you believe that way. And the Senator from Illinois convinced me that he does believe that way.

Yet here, standing and staring in the face of the Senate is the solemn declaration made by the Democratic Party, made by the President of the United States, and made by the membership of the Democratic Senate itself—and the Senator from Illinois was one of the men who voted for it, and I was one of those who voted for it right along with him—that we were going to take out of the hands of the Executive any such thing as the power to negotiate a trade agreement unless that agreement was brought back to the United States Senate to be ratified.

Here is the amendment introduced by the Senator from Mississippi. If the Democratic membership of the Finance Committee meant what it said, here is what they brought back to the United States Senate as the result of that protest. They brought back a recommendation for an adjustment, and they provided this, Mr. President:

Upon the request of the President of the United States, or upon its own motion, or upon application of any interested party showing good and sufficient reason therefor, the Commission—

Meaning the Tariff Commission—

shall investigate and ascertain the differences in the cost of production of any domestic article and of any like or similar foreign article.

And that is the Democratic Party platform, and that is President Roosevelt's promise, too. What else?—

If the Commission finds it shown by the investigation that the duty imposed by law upon the foreign article does not equalize the differences in the cost of production, when efficiently and economically produced, of the domestic article and of the foreign article when produced in the principal competing country or countries, then the Commission shall report to the President and to the Congress its findings and its order with respect to such increases or decreases in the duty upon the foreign article as the Commission finds to be necessary in order to equalize such differences in the cost of production. Any such increased or decreased duty may include the transfer of the article from the dutiable list to the free list or from the free list to the dutiable list, a change in the form of duty, or a change in classification. The report shall be accompanied by a statement of the Commission setting forth the findings of the Commission with respect to the differences in cost of production, the elements of cost included in the cost of production of the respective articles as ascertained by the Commission, and any other matter deemed pertinent by the Commission. Sixty days after the date of the report to Congress of such order by said Commission, such changes in classification shall take effect, and such increased or decreased duties shall be levied, collected, and paid on such articles when imported from any foreign country into the United States or into any of its possessions (except the Philippine Islands, the Virgin Islands, and the islands of Guam and Tutuila): *Provided*, That if before the expiration of such period of 60 days the Congress then in session shall have by joint resolution declared said order of said Commission rejected, then the changes in classification, forms of rate, or increases or decreases in rates of duty specified in such order of said Commission shall not go into effect.

The President, upon receipt of any such report of the Commission, shall promptly transmit the report to the Congress with his recommendations, if any, with respect to the increase or decrease in duty proposed by the Commission.

So, Mr. President, the Democratic membership of the Senate Finance Committee presented here to the Senate following the election in the fall of 1932 its statement or gist of principle that we could not allow any flexible provision of the tariff law to go into effect, even when it was based upon the difference in the cost of production abroad and at home, except and unless such a thing was reported to Congress, and Congress was given 60 days' time in which to express its disapproval of a flexible change made in that manner through the Tariff Commission by order of the President.

In other words, they could not even make a decrease in one rate, they could not make an increase in the tariff on one commodity, unless and except they reported their findings of fact to Congress and, based upon those findings of fact, an order was made by the Congress within 60 days to disapprove, in case it did not want it, and inaction meant consent.

What was the vote on this amendment? Here is the vote: Yeas, Democrats 36, Republicans 6; nays, Democrats none, Republicans 30. Thirty-six Democrats out of 36 came into this Congress, and I was one of them, and said that we

ought to change the present existing law so that there could not be a decrease nor increase made except by the approval of Congress, even though it were based upon the difference in the cost of producing it abroad and at home; and today where are the 36 Democrats? Where are the 36 Democrats who pervaded the entire length and breadth of the United States and extolled the virtues of this bill?

Here is the resolution in the party platform. I was not in the resolutions committee of the Chicago convention, but I understood who it was who wrote the tariff plank in the platform we adopted at Chicago. I understood and was told at the time that the tariff plank in the platform was being drafted by Mr. Cordell Hull, at that time a Member of the United States Senate and one of the men to stand out for this principle of the Senate Finance Committee and one of the sponsors of this act which we passed in 1932.

So, Mr. President, Mr. Hull goes to Chicago. I was watching for this tariff plank. It was one of the few things in which I was interested. I wanted to see what they were going to do. Lo and behold, they came out, and I was handed a memorandum one afternoon as to what was going to go into the Democratic platform. I said, "That is O.K. with us; that is fine; we will stand back of that." What did that plank say?

We advocate a competitive tariff for revenue, with a fact-finding tariff commission free from Executive interference,—

Comma; no period—

reciprocal-tariff agreements with other nations, and an international economic conference designed to restore international trade and facilitate exchange.

Does anybody mean to say that the part referring to reciprocal-tariff agreements separated merely by a comma from what precedes it, meant that they were going to abolish the fact-finding Tariff Commission in arriving at the basis for reciprocal-tariff agreements? If he does, I will turn him back to the remarks of the President of the United States in which the President of the United States said in his speech that he intended to use the Tariff Commission to arrive at the difference in the cost in order to make these reciprocal-tariff agreements. If he cannot read that, I will turn him over to the book that has been written by the President of the United States called "Looking Forward", in which he again said:

I propose to accomplish the necessary reductions through the agency of the Tariff Commission.

Both by word of mouth in speeches and in the book, before the election and after the election, the President's mind was running in that order; and no one at the Chicago convention, whom I ever saw, had any different interpretation to make of it. Now, we are here saying this to you, "If you do not want to keep your word all the way, keep your word as far as you can."

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BARKLEY. Is there anything in this proposed legislation that will prevent the President from using all the information and facilities of the Tariff Commission in arriving at a trade agreement into which he might enter?

Mr. LONG. No; there is not. Would the Senator from Kentucky be willing to let us write in the bill a provision requiring him to do it?

Mr. BARKLEY. No; I would not.

Mr. LONG. That is the trouble.

Mr. BARKLEY. Because I think that he ought to be left free to take advantage of whatever governmental facilities there are; but it is inconceivable that he would arrive at any agreement without taking advantage of all the information of all the departments of the Government of the United States.

Mr. LONG. Yes; and it is inconceivable that they would send a man to jail for pressing a pair of pants for 35 cents instead of 45 cents, but they did it. [Laughter.] There are a whole lot of inconceivable things going on in this country and always will be. At the time we had the N.I.R.A. before us I told Senators what would happen under that thing, and they said it was inconceivable, but it did occur. It is inconceivable that the President of the United States would not keep his word; but I ask, if the United States Senate will not keep its word, how are we going to expect the President to keep his? I do not expect a whole lot more of the President than I expect of Senators. He is no bigger man than the collective Senate is. One is about the same as the other. I have been looking around for all these big men all my life, and I have not found one yet. They look about the same to me. We find one who knows a little bit more about government than another does about farming; but when they are averaged one side up and the other side down, they show up with an average of about 50; you do not get much more than that out of anybody at this time or any other time.

I believe the President is as great a man as any we have had in that office in my recollection, and I believe we can rely upon the President as well as we can upon any other man; but if Senators from sovereign States cannot keep their Democratic campaign pledges, how can we expect the President of the United States to keep his?

In other words, do not set up one yardstick for the President of the United States and another one for yourself. It was stated in the declaration of the Democratic members of the Senate Finance Committee that this thing was contrary to democratic government. We said in our platform that we were going to have a fact-finding commission, and we would ascertain nothing but the difference in costs. I will compromise on the matter; I am willing to make a compromise. It is true that we said in the Democratic platform that we were telling the truth; but I am willing to take half the truth, and be satisfied with it, so far as I am concerned; if we cannot get all the truth, I will take part of the truth. I will just ask that we keep that part of our pledge made to the farmers, and I will not even ask for all of that. All in the world I am asking to be done now, and I will be satisfied with that, is that if they cannot vote for the Johnson amendment—and I am going to vote for that amendment, and I am then going to vote for the Fletcher amendment if the Johnson amendment shall be defeated—all in the world I ask to be done by my good friend from Kentucky and my good friends from the other States is to put in the bill these words which the Senator from Florida proposes:

Provided further, That no agreement shall be made with any foreign government whereby tariffs or import duties on products of agriculture or horticulture shall be reduced below an amount necessary to equalize the difference in cost of production of such products in the United States with the cost of production in such foreign countries.

Can you refuse us this, when the President of the United States said "Of course, it is absurd to talk of lowering tariff duties on farm products"? Can you refuse us this and tell us in one breath that the farmer is not being discriminated against when he has this plighted word of the Democratic Party on the one hand and an amendment here merely to carry that out which is offered by a Senator sitting on this side of the Chamber?

That is all we are asking. We are asking you to help us keep the word the party made to the farmers of this country; that is all. All in the world we are asking is that that word to the farmer be kept, that the farmer be guaranteed that his products will not be put into competition with the products the cost of which may be 50 to 75 percent below that of his own products.

Take the case of cottonseed oil. The Filipinos did not know anything on God's earth about vegetable oil. I remember when I first had a job as a traveling man on the road I was introducing vegetable oils to be used for frying and for shortening in the preparation of foods which were cooked. Nobody ever heard about vegetable oil up to that time, until the cottonseed-oil people of the South experimented and refined cottonseed oil so that it could be used for cooking purposes. After that has all been developed by the American southern cotton farmers, you went over to the Philippine Islands, 10,000 miles away, and brought in an article that can be grown on the same land for 30 years and

produced at a cost so low that it is impossible for the American cottonseed oil to compete with it.

Now, we ask you to protect the cotton farmer. All right. I know you think we have a one-party system in the South. I know you think you can treat us any way you want and we will still have to vote the Democratic ticket. You think that, do you? Well, break your word a few times more and see whether we have got to do it or not. We are going to expect your word to be kept; and if you think the Democrats of the South have got to stand for any kind of sandbagging of the Democratic farmers because they have got to vote the Democratic ticket, we can forget about the period from 1861 to 1865 in the South before we will let you do this kind of thing to the southern farmer. We are not going to stand for it. Remember that. We are not going to stand for it. There are those here from doubtful States who cannot keep their States in the Democratic Party half the time, while we keep ours there. They are not going to rape the State of Louisiana. We are not going to stand for it. Now, remember what I am telling you; we are not going to stand for you to come down there and promise us one thing and then run the plow through us and destroy the farmers of that section. We are not going to stand for it. We are going to try to see that the Democratic Party keeps its word. We are going to stand only for Democrats who do keep their word to the southern farmers.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had passed a bill (H.R. 9404) to authorize the formation of a body corporate to insure the more effective diversification of prison industries, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 9404) to authorize the formation of a body corporate to insure the more effective diversification of prison industries, and for other purposes, was read twice by its title and referred to the Committee on the Judiciary.

RECIPROCAL-TARIFF AGREEMENTS

The Senate resumed the consideration of the bill (H.R. 8687) to amend the Tariff Act of 1930.

Mr. JOHNSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Costigan	Johnson	Pope
Ashurst	Couzens	Kean	Reynolds
Austin	Davis	Keyes	Robinson, Ark.
Bachman	Dickinson	King	Russell
Bailey	Dieterich	La Follette	Schall
Bankhead	Dill	Lewis	Sheppard
Barbour	Duffy	Logan	Shipstead
Barkley	Erickson	Lonergan	Smith
Black	Fess	Long	Steiwer
Bone	Fletcher	McCarran	Stephens
Borah	Frazier	McGill	Thomas, Okla.
Brown	George	McKellar	Thomas, Utah
Bulkley	Gibson	McNary	Thompson
Bulow	Glass	Metcalf	Townsend
Byrd	Goldsborough	Murphy	Tydings
Byrnes	Gore	Neely	Vandenberg
Capper	Hale	Norbeck	Van Nuys
Caraway	Harrison	Norris	Wagner
Carey	Hastings	Nye	Walcott
Clark	Hatch	O'Mahoney	Walsh
Connally	Hatfield	Overton	Wheeler
Coolidge	Hayden	Patterson	White
Copeland	Hebert	Pittman	

The PRESIDING OFFICER. Ninety-one Senators have answered to their names. A quorum is present.

Mr. STEIWER. Mr. President, the opponents of the pending legislation have charged that it constitutes an unconstitutional delegation to the Executive of the powers of Congress. Specifically, the charge is that the bill would delegate to the Executive certain of the treaty-making powers and certain phases of the taxing powers which by the Constitution are lodged in the Congress and which cannot be delegated.

Against this serious charge the proponents of the measure were almost silent for a period of approximately 2 weeks. In the last 2 or 3 days, however, a number of the proponents of the measure have sought to justify the bill against the criticism that it constitutes an unconstitutional delegation to the Executive of the legislative power. I have in mind particularly the argument made by the Senator from Kentucky [Mr. LOGAN] and the argument made yesterday by the Senator from Illinois [Mr. LEWIS].

I am grateful to those Senators and to other Senators for presenting the proponents' side of the controversy. They have not only joined issue upon an important constitutional question which is involved but they have also done another thing in that they have avoided the appearance of contemptuous disregard of views expressed thoughtfully and earnestly by the minority. I believe it will be a relief to the country when the Nation knows that the overwhelming Democratic majority is not so contemptuous of the opinion of the minority and of the people of the Nation that they would pass the bill without making due reference to fundamental constitutional objections which have been raised against it.

What is the argument these Senators present in behalf of the bill? Summarized in a few words, it is that the bill, after all, is not a revenue measure; that in the main it is merely the exercise by the Congress of the powers under the commerce clause of the Constitution to regulate our trade with foreign nations.

In connection with that argument they offer the contention that the taxing provisions of the bill are purely incidental, and that because they are incidental they come within certain precedents established by the courts, and therefore that the making of revenue rates by the Executive constitutes proper Executive action; that the power delegated to the President to make the rates contemplated under the bill and under the treaties authorized to be made by the bill is a power exercised properly by the Executive; and that there is therefore no sound criticism against the delegation.

In this behalf, the Senator from Illinois [Mr. LEWIS] cited two cases—one, the case of the United States against Norton and, the other, a certain banking case. If time permits, I shall refer to both of them as I proceed. Before I attempt to do that, I want to deal with the bill itself and to show, if I may, in the plainest language which I am capable of using, whether or not the bill falls in the category of commercial regulation and whether or not the revenue features of the bill are purely incidental to the dominant purpose of the legislation.

The bill before us, Mr. President, does not present a case of the collection of fees incidental to the performance of a service. The bill by its terms, in its form and in substance, is a bill not only to make treaties but also to levy taxes. Let us examine first the form of the bill.

It is provided in the title that it is "An act to amend the Tariff Act of 1930." To know what that means requires only a reference to the Tariff Act of 1930. There we find that act, as stated in its title, is "an act to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes."

Not only is the form of the bill a revenue measure, but let me call attention to certain provisions contained in it which I feel justify the assertion just made that the bill is, in its substance, a revenue bill.

I omit some language as I proceed, in order clearly to state the summarized purpose of the measure.

It provides, in substance, that—

> For the purpose of expanding foreign markets for the products of the United States * * * by regulating the admission of foreign goods into the United States * * * the President * * * is authorized from time to time—

To do two things. The first is:

> To enter into foreign trade agreements.

The second is:

> To proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and for such minimum periods, of existing customs or excise treatment of any article covered by foreign-trade

agreements as are required or appropriate to carry out any foreign-trade agreement that the President has entered into hereunder.

I wonder if Senators catch the full significance of these two great powers. The revenue features are not of the character of fees collected for the performance of a service. They are the two great authorities which are written into this bill to enable the President to perform acts which he cannot perform under existing law; to do things pursuant to this measure which heretofore have never been done by the Chief Executive of our country, and on what terms. In terms, first, of making foreign-trade agreements with foreign powers and, second, in terms of adjusting tariff duties and in making such additional import restrictions as he may think are necessary or appropriate to carry out the trade agreements.

Analysis of these propositions discloses that the power delegated is far more than the power merely to scale down tariff duties. The President has that power almost without limit, as has been pointed out heretofore in this debate. He may first exercise the power under the flexible provision of the Tariff Act of 1930, and upon the recommendation of the Tariff Commission he may reduce any duty 50 percent. After he shall have done so, he may then enter into a foreign-trade agreement, and under that agreement he may cut the duty upon that article another 50 percent. So that, disregarding the powers that are given to him under subsection (c), found at page 4 of the bill—powers to change the form of a duty and powers to change the classification, both of which will enable him to reduce the duty below the amount it otherwise would have been—there exists plainly in the act of 1930 as amended by this bill the power to make a total reduction of 75 percent; and I say, Mr. President, that the exercise of the further power to change the classification and the form of the duty enables the President to reduce a duty substantially more than 75 percent of the amount provided by the Tariff Act of 1930. Whether the ultimate maximum reduction be in the aggregate 80 percent or 85 percent or 90 percent, the plain fact remains that the great powers conferred upon the President by this bill are in reality powers to reduce the duties to some amount in excess of 75 percent of the existing rates.

Duty decreases constitute only the beginning. Not only may the President wipe out substantially all the duty in amount but he may also do another thing: In furtherance of the treaty he may establish such additional import restrictions as he may think appropriate.

To comprehend the possibilities of the bill, let us measure the extent of that power.

Is it assumed by anyone that the President is to make bilateral agreements between the United States and some other nation of the world, one at a time? If that assumption has been indulged in here, let me say that it is wholly unwarranted.

The language is that the President may—

Enter into foreign trade agreements with foreign governments.

Therefore, he may, if he chooses, enter into one agreement with one government; he may enter into two agreements with two governments; he may enter into one agreement with many governments; he may enter into a number of agreements with governments in combination. There is no restraint upon the President with respect to that matter; and when he exercises the authority conferred upon him by this bill, and enters into the various kinds of agreements that he is permitted to enter into, is it assumed by anyone that the restrictions under which our commerce is to flow thereafter are restrictions that are applicable only to the trade of this Government and of the government with which the President deals? That assumption is not justified by the language, for the President, in making these restrictions, may make such additional restrictions as he thinks appropriate for the purpose of carrying out the foreign-trade treaty. He may enter into an agreement with one nation; he may reduce the duties existing between this country and that nation in furtherance of that agreement; and then, to make the treaty effective, or possibly to induce other nations to enter into a treaty, he may, if he desires, set up trade barriers against other nations of the world.

I leave out of consideration for the moment the favored-nation treaties. Except for the restraint of these treaties, I repeat the assertion already made, which I make with the greatest confidence, that the President may make his foreign-trade agreement with any nation; and then, in furtherance of that agreement, he may establish additional import restrictions against the trade of every other nation.

So, Mr. President, under the manifold powers delegated by this bill, the President may make as many or as few trade agreements as he may desire; he may reduce as many duties as he may think proper, including agricultural duties, and then he may make trade restrictions against the trade of any nation that he may see fit, and he may put it all into one trade agreement or in many, or he may proclaim the reductions in duty all in one proclamation, if he cares to do so.

I should be comforted if some Senator with faithful regard for the meaning of these provisions would tell me that I am wrong in my construction of this language. No Senator has yet even suggested that I am wrong. No Senator, in my opinion, who will give careful attention to the plain language of the bill, will dare say that there is any other construction to be put upon the bill save the one which I now seek to apply to it. If it be true that the President may make as many treaties as he wants to make, reduce as many duties as he pleases, and make as many additional import restrictions as he may think appropriate in connection with his treaty, I ask, What is the limitation upon the power delegated to the President under this bill?

Mr. President, I have said that so far as reduction in the amount of duty is concerned, there is a limitation which prohibits the President to reduce below 25 percent of the existing rates, except for the matter of changes in form or classification. This limitation might prevent him from wiping out duties, even though he exercised the power to change form, and the power to change classification, and the flexible power under the act of 1930, and the additional powers under this bill. It may be that he can only reduce duties 75 or 80 or 85 or 90 percent in amount. I concede that; but, so far as the scope of his authority is concerned in the matter of making import restrictions, and setting up artificial barriers to control the commerce of this country and the commerce of all the nations of the world whose nationals deal with us, I submit that there is absolutely no restriction at all; there is no boundary upon the President's power, save that the restrictions shall be appropriate to the treaty; but he makes the treaty and determines its purpose and effect. Will the President resort to quotas of imports? Will he provide exchange restrictions? Will he prefer to license importers or imports? Will our policy favor the free flow of goods in order to expand our foreign trade or will we adopt a policy of expanding trade by erecting barriers against those who limit importation of American goods into foreign markets? Under the bill Congress does not decide. The authority to decide is delegated to the President.

I repeat that it would be comforting to me if some Senator with faithful attention to the language of this bill would tell me that my construction is wrong.

Mr. WALCOTT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Connecticut?

Mr. STEIWER. I yield to the Senator.

Mr. WALCOTT. I ask permission to insert in the RECORD a brief editorial bearing precisely upon the point which the distinguished Senator is making. It is an editorial in the current number of the Manufacturers Record, entitled "Protect American Business."

Mr. STEIWER. I have no objection. I suggest, however, that it appear at the end of my remarks.

The PRESIDING OFFICER (Mr. MCGILL in the chair). Without objection, it is so ordered.

(The editorial referred to is printed at the end of Mr. STEIWER's remarks.)

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Idaho?

Mr. STEIWER. I do.

Mr. BORAH. I desire to say that it seems to me the position which the Senator takes is an entirely sound position, and I cannot help but believe that what the Senator indicates was the design of the framers of the bill. Otherwise the President would be greatly embarrassed in dealing with the subject. I think it was the design to give the President complete power over the subject.

Mr. STEIWER. I thank the Senator, and I am entirely in accord with what he says. This bill was not drawn by novices. Its very structure indicates that it was carefully formulated by somebody who knew what he was doing; and it is difficult to attribute to the authors of this bill anything other than the deliberate design to accomplish that which is so clearly provided in the terms of the bill.

I now come to the phase which I wish to impress upon this body, if I may.

Under the construction which I am outlining to the Senate as to the scope and purpose and possibilities of the bill, I desire to ask, What is there, under the authority of this bill, that the President may not do, save for the restraint of the existing favored-nation treaties and for this mathematical restraint in the amount of the reduction of duty? I have examined the bill just as carefully as I could in an effort to answer that question, and I have reached the conclusion that there is nothing that the President may not do in terms of rewriting the administrative features of the tariff law. There is nothing in terms of reclassification that the President may not do. There is nothing with respect to the change of form of duties in which the President may not indulge; and because he may heap import restriction upon import restriction if he desires to do so there is no limit to the artificial barriers he may erect affecting the trade of the entire world as well as the trade of the United States, because, after all, most of the trade channels lead to our own ports.

This bill in plain language is a bill to authorize the President of the United States to rewrite the Tariff Act of 1930, both with respect to rates and with respect to administrative provisions, and, if he desires, in very substantial respects to wipe out existing statutes and to make a new law.

I ask, as seriously as I can ask, what is the policy the President is to follow in prescribing the new tariff system of this country? Is it to be free trade, tariff for revenue only, is it protection, is it a degree of protection which measures the difference between the costs of production at home and abroad, or is it something else? The policy to be followed is not defined by the bill.

The nearest definition to a policy, I think, is the announced statement that the President may exercise these great powers for the purpose of expanding the foreign markets for the products of the United States.

If the Court is to reach a sensible conclusion as to the purpose of Congress in conferring upon the President the extraordinary powers contemplated in the bill, apparently it will be obliged to say that the Congress has authorized the abandonment of every theory that has ever been adhered to by either great political party in this country; that the Congress has authorized the President to change the American tariff policy, and to embark upon a new and undefined policy which has for its purpose and object the expansion of foreign markets. If that be the test, then what is the procedure? What is the problem of the President? How far will he go, and in what direction?

Mr. President, the quest for an answer to these important questions suggests one thing which determines beyond doubt that this bill does constitute an unconstitutional delegation of the legislative powers to the President, and that is that there is no definition in the bill; it involves so great a scope of undefined authority with respect to the making of rates, the taxation of the people, the making of treaties, and the creation of policy legislative in its character, the delegation cannot be sustained.

Let us examine briefly some of the authorities which have been referred to in connection with this matter. I shall not detain the Senate long to deal with matters which are purely legalistic and technical.

The Senator from Illinois [Mr. LEWIS], invoking his brilliant gifts and talents into this discussion, assured us that this was not a revenue bill at all. He says it is a bill for the regulation of foreign commerce; that the revenue features are purely incidental, and that, because they are incidental, the bill is not within the constitutional provision requiring that revenue bills shall originate in the House of Representatives.

On that proposition the Senator cited two cases. The first was the case of Twin City Bank against Nebeker, which is found in One Hundred and Sixty-seventh United States Reports, page 196. That was a case which dealt with an act affecting the national currency, requiring, as I remember, the security of the currency by a pledge of bonds of the United States. The act required a tax for the purpose of carrying out the main object of providing a national currency. The Court said:

> The tax was a means for effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States and be available in every part of the country. There was no purpose by the act or by any of its provisions to raise revenue to be applied in meeting the expenses or obligations of the Government.

I call attention to the very last part of the quoted language. The Court justified the legislation upon the distinction that there was no purpose of raising revenue. Now we are dealing with a measure which has for its primary purpose the raising of revenue. The Tariff Act of 1930 would be amended with respect to the important matter of changing rates of duty under which taxes are levied and collected by our Government.

The Court also said, in sustaining the act against objections then made:

> It is sufficient in the present case to say that an act of Congress providing a national currency secured by a pledge of bonds of the United States, and which, in the furtherance of that object, and also to meet the expenses attending the execution of the act, imposed a tax on the notes in circulation of the banking association organized under the statute, is clearly not a revenue bill which the Constitution declares must originate in the House of Representatives.

Mr. President, the other case upon which the Senator from Illinois placed emphasis was the Norton case, to which I referred earlier in my remarks. That was the case reported in Ninety-first United States Reports, page 566. In the Norton case the Court was dealing with a question arising under the act of May 17, 1864. I read from the decision of the Court. Referring to the act, the Court said:

> Its object, as expressly declared at the outset of the first section, was to promote public convenience and to insure greater security in the transmission of money through the United States mails. All moneys received from the sale of money orders, all fees received for selling them, and all moneys transferred in administering the act, are "to be deemed and taken to be money in the Treasury of the United States."

How different is the pending proposal from the two acts referred to in these two cases. One is a great revenue act, which applies in every port, which lays its duties at every customhouse, and which has for its express object, among other things, the raising of revenue, and which, in fact, does raise revenue to the extent of hundreds of millions of dollars each year. The two acts referred to in these two cases are acts in which the raising of revenue was purely, completely, and admittedly, incidental to other purposes. They were not revenue acts.

What is the force and effect of the argument made by the Senator from Illinois? I contend that the only effect, if he were correct in his contention, would be that the pending bill would of necessity have to originate in the House of Representatives, for the only difference between the exercise of the different powers of the Congress enumerated in section 8 of article I, like the power to regulate commerce, and the exercise of the taxing power, is that the taxing power must be availed of by legislation which originates in the House of Representatives. That condition is not imposed with respect to the exercise of the other powers; but with any of these powers, whether the bill must originate in the

House or whether it may originate in the Senate, the requirement still exists that such powers cannot be delegated to someone else.

Even if the Senators from Illinois and Kentucky are right that the bill is a bill to regulate commerce with foreign nations, in either case the power is a constitutional power of the Congress. It cannot be delegated to the President except for acts of execution.

The Senator from Illinois disposed of the case of Clark against Field merely by saying that in that case the Court had denied the contention that the powers delegated were legislative powers. In his wisdom he seemed to believe that that determined the question.

Permit me to analyze the case briefly, because I think it affords illumination which we need if we are to arrive at a correct conclusion in this matter.

The case of Clark against Field dealt with the Revenue Act of 1890. That act conferred a certain authority upon the President in connection with our foreign trade. I find on page 680 the provision of the act which was before the Court in its decision. I read from the statement of the Court:

> The third section of the act of October 1, 1890, chapter 1244, section 3, is in these words:
>
> "SEC. 3. That with a view to secure reciprocal trade with countries producing the following articles, and for this purpose, on and after the 1st day of January 1892, whenever and so often as the President shall be satisfied that the government of any country producing and exporting sugars, molasses, coffee, tea, and hides (raw and uncured), or any of such articles, imposes duties or other exactions upon the agricultural or other products of the United States, which in view of the free introduction of such sugar, molasses, coffee, tea, and hides into the United States he may deem to be reciprocally unequal and unreasonable, he shall have the power, and it shall be his duty, to suspend, by proclamation to that effect, the provisions of this act relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of such country for such time as he shall deem just, and in such case and during such suspension duties shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides, the product of or exported from such designated country as follows, namely "—

And there follows the rates of duties, which I shall not read.

What is the effect of that legislation? It is merely this, that Congress in advance fixed definitely the rates of duties, and then suspended those rates and authorized the President to determine whether the action of the other country had operated unequally against our commerce on account of duties or other exactions upon our products which the President deemed to be reciprocally unequal and unreasonable. Do Senators know the question that distressed the Court in its consideration of that language? Let me call attention to the fact that when the Court considered it, it dealt with the words "he may deem." I quote:

> The words "he may deem", in the third section, of course, implied that the President would examine the commercial regulations of other countries producing and exporting sugar, molasses, coffee, tea, and hides, and form a judgment as to whether they were reciprocally equal and reasonable, or the contrary, in their effect upon American products.

That language is most significant and arrests the attention of every lawyer who comes in contact with this case, because the plain fact of the matter is that the Court construed the phrase "he may deem" to mean he may find. And the significant reason for that is found in other language used by the Court, because the decision declared that although Congress may write tariff laws, fix the amount of duties, suspend their application, and direct the President to apply or not to apply those rates to the articles enumerated, the Court said that the President must act upon a finding of fact, and evidently the phrase "he may deem" was regarded by the Court as trespassing upon the legislative domain of Congress, because it purported to give to the President the authority to exercise discretion, and it is the exercise of discretion by the Executive which condemns delegation of power as unconstitutional.

To withhold from the Executive the legislative discretion, to limit him merely to the finding of a fact within a formula, as was done in the flexible provision of the Tariff Act of 1922, and in the act of 1930, is merely to leave to him an administrative authority. The delegation of this authority is not an unconstitutional delegation, but the delegation of authority to exercise discretion as to policy is the thing that characterizes the legislation as unconstitutional.

I will now read from the decision an important paragraph which makes this argument perfectly clear. The Court said:

> That Congress cannot delegate legislative power to the President is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution. The act of October 1, 1890, in the particular under consideration, is not inconsistent with that principle. It does not, in any real sense, invest the President with the power of legislation. For the purpose of securing reciprocal trade with countries producing and exporting sugar, molasses, coffee, tea, and hides, Congress itself determined that the provisions of the act of October 1, 1890, permitting the free introduction of such articles, should be suspended as to any country producing and exporting them, that imposed exactions and duties on the agricultural and other products of the United States, which the President deemed, that is, which he found to be, reciprocally unequal and unreasonable. Congress itself prescribed, in advance, the duties to be levied, collected, and paid, on sugar, molasses, coffee, tea, or hides, produced by or exported from such designated country, while the suspension lasted. Nothing involving the expediency or the just operation of such legislation was left to the determination of the President. The words, "he may deem" in the third section, of course, implied that the President would examine the commercial regulations of other countries producing and exporting sugar, molasses, coffee, tea, and hides, and form a judgment as to whether they were reciprocally equal and reasonable, or the contrary, in their effect upon American products. But when he ascertained the fact that duties and exactions, reciprocally unequal and unreasonable, were imposed upon the agricultural or other products of the United States by a country producing and exporting sugar, molasses, coffee, tea, or hides, it became his duty to issue a proclamation declaring the suspension, as to that country, which Congress had determined should occur. He had no discretion in the premises except in respect to the duration of the suspension so ordered. But that related only to the enforcement of the policy established by Congress. As the suspension was absolutely required when the President ascertained the existence of a particular fact, it cannot be said that in ascertaining that fact and in issuing his proclamation, in obedience to the legislative will, he exercised the function of making laws. Legislative power was exercised when Congress declared that the suspension should take effect upon a named contingency. What the President was required to do was simply in execution of the act of Congress. It was not the making of law. He was the mere agent of the lawmaking department to ascertain and declare the event upon which its expressed will was to take effect. It was a part of the law itself as it left the hands of Congress that the provisions, full and complete in themselves, permitting the free introduction of sugars, molasses, coffee, tea, and hides, from particular countries, should be suspended, in a given contingency, and that in case of such suspensions certain duties should be imposed.

Comment on language of the character to which I have just called attention would seem almost unnecessary.

The Court, in sustaining the act of 1890, expressed views which condemn this act. The Court there pointed out that the President was to perform merely an administrative duty; that he was to do it upon a named contingency, and that when he proclaimed the fact contemplated within the act certain prescribed duties were to go into effect.

Let us now consider the pending bill. What is required of the President? Where is there something equivalent to the mandatory requirements of the act of 1890? What defines when and how he is to exercise his authority? Where is there a determination as to what rates of duty he shall apply in the event that he deems it expedient under this law to change tariff duties and to make treaties with foreign nations?

I desire to emphasize, if I can, in the plainest language which I am capable of using, that the act of 1890, as well as the acts of 1922 and 1930, did provide a formula for the guidance of the President. These acts were sustained because they provided such a formula. They and all of them were sustained because the Congress defined the President's authority. They did not say to him, as is said in this bill, that "you may in your judgment from time to time when you see fit", or "you may not in your judgment from time to time as you see fit enter into a trade agreement." They did not say, as this act says, "If you enter into a trade agreement you may change duties, you may modify them up or down substantially to such extent as you may think proper."

Those acts did not say to the President, "In case you enter into a trade agreement, you may impose import restrictions

upon the trade of all the nations of the world that deal with the United States." None of those acts said in effect to the President, "You may use your discretion, whatever it may be, to enter into treaties wherever you may desire, and to fix duties at whatever rate you may please." There is not an act in the history of our country that even approaches the extent of this bill. There is not an act that has been sustained by the courts that would go even 10 percent as far as this act goes in conferring extraordinary and unusual powers upon the President.

I am bound to conclude, in faithful adherence to the plain language of the bill, that for want of legislative formula in controlling the action of the President it does, in fact, delegate to him powers which are highly legislative in character, and the delegation is, therefore, invalid.

Mr. FESS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Ohio?

Mr. STEIWER. I yield.

Mr. FESS. Does the Senator think the authority written in this proposal extends to permitting the President to establish a policy in reference to the rates of duties?

Mr. STEIWER. There cannot be any possible doubt about it. The President's function is to expand American markets for the products of the United States by the means which are afforded under the bill, but when he seeks to accomplish the chief object of the act, namely, to expand our foreign trade, he is just the same as the first man who stood naked and alone upon this earth. There is not any restraint from any point of the compass save the mathematical restraints which are quite nebulous and uncertain and which I have attempted to define but which I confess I do not quite comprehend. But so far as policy is concerned in the making of these import restrictions, it is for the President to determine. I assume that in the performance of his duty he will determine what the policy of our country shall be as to whether we will engage in commercial trade entanglements or whether we will not. It is for him to say. There is not a word or a syllable here by which Congress indicates what his important duty may be.

Mr. FESS. That is my interpretation of the power written in this proposed legislation, and it is such a radical departure from anything that has ever been proposed. The policy-determining function is always legislative, never executive. There is not a case in our history where the policy-determining power has been given to the Executive. That is a legislative prerogative, while the Executive function is to administer that policy. If this measure goes to the extent of allowing the Executive to declare a policy, it is certainly in contravention to all principles of a government such as ours.

Mr. STEIWER. I should feel very comforted, Mr. President, if I could find in the bill one line that tells the President what he shall do with respect to imposing import restrictions.

Mr. FESS. That is my view of it.

Mr. McCARRAN. Mr. President——

Mr. STEIWER. I yield to the Senator from Nevada.

Mr. McCARRAN. I hope the Senator's reference to the first man contemplates that period before he lost his rib. [Laughter.]

Mr. STEIWER. Mr. President, I hope the Senator will excuse me from dealing further with the "first man." The matters before this body, including the pending bill, are so grave in their implications that I know Senators will permit me to treat them with the serious purpose I should like to accord to them.

I wish for a few moments to refer to the pending amendment. One-third of our Nation is suffering from drought. In the entire Nation the agricultural elements are suffering from economic distress. Speaking largely, they have been in trouble since the first deflation following the World War. In only limited areas and in special lines have our agricultural groups enjoyed real prosperity since 1921. Their situation was so serious that both political parties declared that they were entitled to special consideration as far back as 1924. In the great campaign of 1928 the Republican Party took the position that the American farmer was entitled to the American market to the extent of his ability to supply that market, and, to some extent, the Democratic Party took the same position. There was almost complete agreement in this body in providing agricultural tariffs in the Tariff Act of 1930. I think such tariffs received more votes, on the whole, than any of the industrial tariffs which were written into that act, and nearly everyone was in accord with the idea that there could be no sustained, dependable prosperity in America until the buying power of the American farmer had been restored.

Those of us who come from the agricultural areas of the West are thoroughly convinced of the correctness of this conclusion. We cannot look with favor upon legislation which even admits the possibility of a blow being struck at agriculture. In my judgment, there is every reason why we should not subject any part of our economic structure to the so-called "bargaining deals" that are contemplated under this proposed legislation. I think there is a special reason why we should not subject agriculture to the hazards that would come from legislation of this kind.

Let me make very plain, if I can, some reasons why agriculture will suffer from the mere enactment of this bill, even though the President, in his wisdom, would never exercise one of the powers conferred upon him by its enactment. Some months ago the wool price had been stabilized at a fairly satisfactory figure; it was not as high as some of us would have liked, but it was a fairly satisfactory figure. When this bill came before the Congress, I think it was not 2 weeks until there was a sharp decline in the price of wool. The growers felt that they were threatened by this proposed legislation, the wool trade sought to profit by the pendency of the legislation, and the forces in every direction crowded the price down.

I asked a gentleman who is interested in the wool business to verify certain facts for me. He has supplied me with two or three telegrams, from which I wish to read.

Mr. HARRISON. Mr. President, will the Senator yield for a question?

Mr. STEIWER. Yes.

Mr. HARRISON. In the clipping season does not the price of wool go down, as a general rule?

Mr. STEIWER. No, Mr. President.

Mr. HARRISON. Do not the records and statistics show that to be the fact?

Mr. STEIWER. No; it sometimes is true, but very often in the spring of the year there is a brisk demand for wool, and it is also true that the period prior to the clipping season is very often a very satisfactory contract period for the sale of the wool clip.

Mr. HARRISON. I did not mean that there is not a demand, but I mean does not the clipping of the wool have an effect upon the price which usually is apparent in some slight decline in the price of wool?

Mr. STEIWER. The Senator might find instances where that has happened; but, generally speaking, it is not true. There is no better wool market ordinarily than the spring market. I have some knowledge of the subject. At one time I was engaged in the sheep business, but I practiced law in order to get money to pay the losses from my farming and livestock operations. My painful experiences I will not recount, but I think I am reasonably well qualified to answer the Senator's question. There is no reason why the spring market should not be a good market. This spring the market was good until tariff tinkering was heralded to the country, and then the price broke, not a little, not the slight amount that it might have done under old conditions, but it broke very substantially; and not only that, but the whole market became stagnant, and for weeks in the State of Oregon I think it is true that not a clip was sold, that it was not possible to make a transaction of any kind in connection with the moving of the 1934 clip.

Mr. LONG. Mr. President——

Mr. STEIWER. I yield to the Senator from Louisiana.

Mr. LONG. Has that condition improved in the last week? I know it was very bad last week.

Mr. STEIWER. It improved, I think, 2 or 3 weeks ago after certain reassuring statements had been made by the Senator from Wyoming [Mr. O'MAHONEY] and others. Those statements were printed in the intermountain region, and I have clippings from newspapers in Wyoming, Texas, and other States. Momentarily the market improved, but I think now it has subsided again and the market is very unsatisfactory. The intermediate credit bank has cut down its loaning ratio within the last 2 or 3 weeks by reason of the deliberate judgment of the executives of that agency that the market is unstable.

Mr. LONG. I was just going to ask the Senator if it was not a fact that it subsided, as I understood, about 7 or 8 days ago, when the Government itself, who ought to know what the Government is fixing to do to the woolgrower—and if the Government does not know what it is fixing to do to the woolgrower, who does?—cut the margin upon which the woolgrower was allowed to figure?

Mr. STEIWER. I think the Senator does not mean "the Government", but I think he means the intermediate credit bank.

Mr. LONG. That is true; but it is practically the Government; there is very little difference.

Mr. McCARRAN. The subject now being discussed by the Senator from Oregon is exceedingly interesting. It is interesting to me from two standpoints. I hope I correctly construe the expression of the learned Senator from Mississippi [Mr. HARRISON] some days ago when he stated, and I quote him rather in substance than literally, that there had been an understanding or agreement that wool should not be subject to the terms of the bill. If I misquote the substance of his statement, I wish to be corrected.

Mr. HARRISON. Mr. President, I stated it as my opinion that wool would not be affected by the entering into these trade agreements. Then I placed in the RECORD a letter which the Secretary of the Treasury had written to the Senator from Wyoming [Mr. O'MAHONEY].

Mr. McCARRAN. If the Senator from Oregon will permit the further interruption, I have in my office, and I hope to produce here either tomorrow or when the discussion of the subject is continued, an excerpt from a statement by the Secretary of Agriculture to the effect, or at least leading to the conclusion that wool would be one of the commodities that would have to suffer by reason of conditions prevailing. I have not that statement with me, neither do I assume to quote its substance, but I have it in my office and shall produce it at a later hour.

Mr. STEIWER. I thank the Senator for his contribution. The Senator from Mississippi has suggested his hope and understanding that wool will not be disturbed. We know that one of the agencies to be consulted under the terms of the bill is the Department of Agriculture. We know the views of the Secretary of Agriculture and the expressions he has made. He has said that his policy might cause pain to woolgrowers and that they would howl continuously to high heaven.

There is only one way to safeguard a great industry, an industry staggering under a load of debts and depression and drought. The only way we can protect that industry is to write into the bill that the rates may not be disturbed.

Mr. LONG. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Louisiana?

Mr. STEIWER. I yield.

Mr. LONG. We have just as good assurance on agricultural commodities as the wool people have. We were told the authorities were not going to do anything about agricultural commodities. Mr. Hull said that. The President said that. Every time we mention a commodity we can find assurance that they are not going to disturb it, but are going to leave the competitive difference existing, and yet we cannot get them to let us write it in the law. They are not going to hurt anybody; everybody is going to be all right, but we are not going to except you. It is said that they are taking into consideration "the other man." Who is the other man? Who is the "nigger in the woodpile" that is going to get burned in this matter? I have never been able to find anyone who has not received an assurance in writing. Every man has an assurance from somebody that he is not going to be hurt, and still they will not let us write it in the bill.

The PRESIDING OFFICER. The time of the Senator from Oregon on the amendment has expired.

Mr. STEIWER. I will proceed on the bill.

The PRESIDING OFFICER. The Senator has 20 minutes on the bill.

Mr. LONG. Why is it that they stand up and say they will protect the woolman, and yet at the same time they are letting him lose everything he has, and will not let us write in the bill a provision to protect him? That is what I want to know. Why should they let the wool people lose everything they have today when they say they are not going to hurt him, and still they will not let us write it in the bill? We cannot get them to write it in the bill, and yet they say they will not hurt the woolman, who is losing everything he has.

Mr. HARRISON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Mississippi?

Mr. STEIWER. I yield.

Mr. HARRISON. Does the Senator think the tariff on wool is an effective tariff?

Mr. STEIWER. Yes. It is not always equally effective, it is not always 100-percent effective, but there have been times when it was 100-percent effective, and all the time it has been partially effective. The best-informed minds in the wool industry feel they cannot live without protection, and I agree with their conclusion.

Mr. HARRISON. The reason why I asked the Senator the question is that he expressed some doubt about the Secretary of Agriculture and what he had stated. Of course, the President of the United States is more in authority than the Secretary of Agriculture. Will the Senator permit me to read just a sentence or two?

Of course, it is absurd to talk of lowering tariff duties on farm products—

Said the President in his Baltimore address—

I declared that all prosperity in the broader sense springs from the soil. I promised to endeavor to restore the purchasing power of the farmer's dollar by making the tariff effective for agriculture and raising the price of his products. I know of no effective excessively high tariff duties on farm products. I do not intend that such duties shall be lowered. To do so would be inconsistent with my entire farm program, and every farmer knows it and will not be deceived.

Is not that strong enough language to give the Senator assurance and to give the woolgrowers assurance?

Mr. STEIWER. I agree that is strong language, and I claim it is strong enough to justify the Congress in excluding agricultural products from the scope of this bill. It would seem to me if there is one single argument which justifies the exclusion of agricultural products, it is the language just read by the Senator from Mississippi from the speech which the President made at Baltimore during the 1932 campaign. That is the statement upon which the President carried great areas in the West in that campaign. That is the assurance which gave him his votes. Certainly the President is not going to deny his own statement, and certainly he could not or should not complain if we should write into the bill in plain, simple language the provision that he may not have the power to do that which he has said he does not propose to do.

Mr. HARRISON. Is not the price today over 80 cents a pound for clean wool?

Mr. STEIWER. In 1930 we enacted a new tariff law.

Mr. HARRISON. I am not talking about 1930. I am talking about now. There is quite a difference between what it is now and what it was 3 years ago when the Senator's party controlled the Government.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. STEIWER. I yield.

Mr. HATCH. Is it not a fact that the price of grease wool after the passage of the act of 1930 went down as low as 4 or 5 cents a pound?

Mr. STEIWER. I do not know the price in the Senator's area. Of course we all know the value of grease wool depends upon its clean content. I am told that New Mexico has very inferior and very dirty wool, but I do not like to state that in answer to the Senator's question.

Mr. HATCH. There were seasons when it could not be sold at all.

Mr. HARRISON. Is it not a fact that in 1929 the price of wool was very low? What was the lowest price?

Mr. STEIWER. I cannot tell the Senator the lowest price in 1929.

Mr. HARRISON. I understood the Senator was at that time engaged in the wool business.

Mr. STEIWER. Not at that time. My experience was prior to that time. Wool was very low. I think the lowest price was 3 years ago.

Mr. HARRISON. What was the price then?

Mr. STEIWER. In the West we figure prices on wool in the grease. There was a grease price in the Pacific coast area as low as 8 or 9 cents a pound.

Mr. HARRISON. What was the price on clean wool?

Mr. STEIWER. Substantially three times that or a little more.

Of course, that was due to a variety of causes and due to many other things, including the condition of the textile industry.

In that connection I want to add one more observation and that is that although the President stated in his Baltimore speech that he did not propose to reduce the duties upon agricultural products, everyone who knows even the beginning of the theory of protection for wool knows that there must be compensatories upon the manufactured articles, and the President has made no assurance to the country that he will not reduce the duty upon yarns and upon cloth and upon woolen garments or other products of wool.

Mr. McCARRAN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Nevada?

Mr. STEIWER. I yield.

Mr. McCARRAN. May I, with the permission of the Senator from Oregon, refer to the learned Senator from New Mexico [Mr. HATCH] to say that American wool can never be considered as on a basis with the wool which comes across the Mexican line. That is an answer to the 4-cent wool which existed, perchance, in southern New Mexico.

Let me answer the learned Senator from Mississippi [Mr. HARRISON]—and I am answering his position in a spirit entirely friendly to the administration, entirely fair to it, entirely desirous of following it. Since the speech was made to which he referred, an excerpt from which was read by the learned Senator from Mississippi, there has been an intervening agency, to wit, the Secretary of Agriculture, whose precepts and teachings have gone forth to the country to merit condemnation from the agricultural communities of the country.

Mr. STEIWER. There has been another intervening agency. There has been an apparent surrender upon the part of our Government to a new philosophy, to a belief that we must serve the world, that we must better the world, that we must improve the trade and economic conditions of foreign countries. The record is written at large. Numerous statements have been presented to this body, made by advisers of this administration, indicating that we are to embark upon a new policy, and not a man in this body knows exactly what that policy may be, and yet we feel it in the very air. We know that under the trade agreements, when we start to engage in entangling commercial alliances with all the nations of the world, to pile import restriction upon import restriction, and then possibly trade them off again, the new advisers under the new deal, the new policy, may intervene even more effectually than the Secretary of Agriculture.

Mr. LEWIS. Mr. President——

Mr. STEIWER. I must hurry on, Mr. President. I hope the Senator will not be offended if I decline to yield. I have only 5 minutes more.

Mr. LEWIS. Oh, no, Mr. President; I was only going to ask the Senator from Oregon if he would let me know, for information, to what he refers. The matter he related is new to me.

Mr. STEIWER. I did not understand the Senator's question.

Mr. LEWIS. I will ask the question, and if it takes too much time to answer it, I pray the Senator will feel free not to do so. What did the able Senator mean in his allusion, in response to the Senator from Louisiana, to some banking establishment which the Senator from Oregon felt was influencing the price of wool?

Mr. STEIWER. I did not mean that, Mr. President. This bill is influencing the price of wool; but the intermediate credit bank, for fear of the lack of stability in the market, has cut down its loan ratio within very recent times, 2 or 3 weeks ago. That is a significant thing; and not only that, but here is the kind of material we find:

Mr. O'MAHONEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Wyoming?

Mr. STEIWER. I am sorry, but I cannot yield. I cannot finish my statement for lack of time.

Mr. O'MAHONEY. I should like the authority for the Senator's latter statement regarding the intermediate credit bank.

Mr. McCARRAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Nevada?

Mr. STEIWER. I am sorry, but I cannot yield. I desire to proceed. I wish to give an illustration of why we know so definitely that agriculture is being hurt by the mere pendency of this bill, and that it will be injured by the proposed delegation of powers in the Executive.

Here is a telegram referring to a transaction in Utah, sent to Mr. F. R. Marshall, who is the secretary of the National Wool Growers' Association. It says:

> Following is statement of Sevy Bros. on sale of their wool: "Howard Candland offered 17 cents on consignment, 21½ cents outright sale, and if tariff is not lowered would add 5 cents to above prices."

I have, from another gentleman, a telegram which relates to some of the same transactions. It is to this effect:

> Understanding is that Candland agreed to raise offered prices 5 cents if pending tariff bill was not passed at time wool was received in Boston.

Mr. CLARK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Missouri?

Mr. STEIWER. I am sorry, but I cannot yield.

It is inevitably true that when uncertainty is introduced into business life, stability is destroyed. There is no power that depends upon ipse dixit that can be employed by any executive of any nation without enabling the purchaser to take advantage of the seller. It will always be a "bear" influence. It is now, and it will be, a "bear" influence, injurious to the agricultural elements of our country; and I submit that they ought not to be required to meet a condition of that kind.

Mr. President, I have about exhausted my time. I desire to read a summarized statement as a conclusion of the remarks I am making. This statement was prepared by another, but it exemplifies my thought so well that I will read it.

> If the Democratic leaders today deny that their reciprocal tariff program will injure the American farmer, let them explain now what will happen when around the table of that international conference Denmark and other Scandinavian countries demand a lowering of the duties on dairy products, particularly butter, and Argentina demands a lowering of our agricultural rates on corn and wheat and beef, and Australia and New Zealand demand a lowering of our rates on dairy products and wool and lamb, and

Canada demands a lowering of our agricultural rates on wheat and dairy products, livestock, and lumber? Practically all of Canada's protest against our tariff is due to our agricultural rates. The same is true of the protests of all South American countries, of Australia and New Zealand, of Italy and Spain, of the Scandinavian countries, of Russia, of Cuba, and Mexico. None of these countries are manufacturing countries. Their exports are agricultural almost exclusively. Their protests against the present tariff are against its agricultural schedules.

There could be no possible reciprocable tariff agreement between the United States and any of those countries which did not open American markets to the agricultural exports of those countries.

The American producer may be given access to foreign markets under a reciprocal tariff, but he will not be given orders for goods; he will not be given any special privileges in those markets, and he will be able to extend his sales in those foreign markets only if he meets the competitive prices of Soviet Russia, the Argentine, New Zealand, and Australia in food products, and Czechoslovakia, Germany, Hungary, Australia, Japan, Italy, and France in the manufactured products. And if he meets their prices in order to extend his sales, wherein does he profit?

We will be trading a good market for a bad one, a profitable market for a bankrupt one.

Mr. President, I conclude with the expression of the thought that there is no possible gain in this bill which can compensate the inevitable losses that will occur under it; and there is especially no hope for the American farmer in this bill. Nothing but injury can come to him if we hang this sword over his head.

There is only one course by which we can assure agriculture that the threat implied in this legislation will not be carried into effect, and that is by the adoption of the amendment of the Senator from California [Mr. JOHNSON], thus writing into the bill definite legislative exemptions so that all will know that agriculture in this country is not to be doomed by instability, uncertainty, and fear, all caused by reposing in the Executive a power to injure industry by taking away the protection which it now enjoys, and subjecting it to the competition of the world.

(The editorial from the Manufacturers Record submitted by Mr. WALCOTT and ordered printed in the RECORD at the conclusion of Mr. STEIWER's remarks, is as follows:)

PROTECT AMERICAN BUSINESS

Last year we bought $1,449,000,000 worth of goods from foreign countries. This was $126,000,000 more than in 1932. Of our total imports in 1933, more than $1,113,000,000, or 76 percent, was expended for foreign farm and forest products, manufactured and unmanufactured, the balance of $336,100,000 was for minerals, metals, machinery, chemicals, etc.

We are now told we must lower our tariff and buy more from abroad in order to sell more. The cotton growing sections of the South which export about half of its cotton crop is particularly interested in this movement, but what other industrial group is to share its domestic market with foreign producers and what is to happen to the workers in the affected groups when increased foreign competition curtails their sales? Surely general farmers, now overburdened with surplus crops, should not be made to suffer additional import competition. With our industrial capacity in many lines now beyond our domestic requirements the jobs of industrial workers should not further be jeopardized by opening wide our home markets to foreign producers. Employed American factory workers create wealth and buying power in the United States. They are the best customers of our farmers.

Let us not forget that over 60 percent of our import values in 1933 entered this country free of duty. Ninety percent of the imported crude foodstuffs, 38 percent of the manufactured foodstuffs, 71 percent of the crude materials, 60 percent of the semimanufactures and 41 percent of the finished manufactures pay no duty and directly compete with American producers.

With the rise in the price of commodities under N.R.A., with the increased cost of farm products under the A.A.A. and the procesing tax, it is all the more vital that American producers and labor's jobs be protected against cheap foreign goods. It is more important to protect our domestic business, which is about 95 percent of our total trade, than to make doubtful concessions to the remaining 5 percent done with foreign countries. With the exception of certain tropical products and manufactured specialties not produced in this country, there is nothing that we need to import and nothing that can be imported without direct competition with American producers and labor.

With the amount of import business now being done, we are paying a high proportion of our ocean shipping costs to foreign carriers; foreign investors in American enterprises are still receiving millions in dividends and interest from this country, and American tourists spend abroad hundreds of millions of dollars a year, all of which must be taken into account in considering foreign capacity to buy American products.

General imports, 1933

Classified	Total value	Percent of total	Entered free of duty	
			Value	Percent
Crude materials	$418,155,000	28.9	$298,241,000	71.3
Crude foodstuffs	211,817,000	14.6	190,202,000	90.0
Manufactured foodstuffs	205,042,000	14.1	78,448,000	38.9
Semimanufactures	292,000,000	20.2	177,946,000	60.9
Finished manufactures	322,194,000	22.2	133,163,000	41.3
Grand total	1,449,208,000	100.0	878,000,000	60.6

General imports, 1933, by commodity groups

	Total value	Percent all imports
Animals and animal products	$140,029,000	9.7
Vegetable products, except fibers and wood	532,440,000	36.7
Textiles	270,452,000	18.6
Wood and paper	170,179,000	11.7
Total farm and forest products unmanufactured and manufactured	1,113,100,000	76.7
Fish and fish products	22,140,000	1.5
Nonmetallic minerals	66,026,000	4.6
Metals and manufactures, except machinery and vehicles	116,001,000	8.0
Machinery and vehicles	8,558,000	0.6
Chemicals and related products	59,938,000	4.1
Miscellaneous, including sport goods, books, art works, novelties, etc.	63,445,000	4.5
Grand total imports	1,449,208,000	100.0

There always will be a certain amount of trade between the United States and foreign countries but since many foreign countries have rapidly developed their own manufactures and have improved their agricultural situation to the point where many are raising their food supply, they do not require as much of our goods as formerly and unless another war disorganizes production and distribution facilities they will not buy on the scale of former years. Certainly with our own productive capacity and possibilities of development of industries we do not require so much of foreign goods. Foreigners only buy from us or other countries when they can do so at a saving or because of superior quality. They have bought our cotton because of its better quality in the past and they have bought more of it when prices were comparatively low.

It has been said that we cannot sell cotton abroad except on a reciprocal trade basis and that means tariff revision downward. We have not lowered the tariff and yet in the calendar year 1933 we shipped 8,354,000 bales of cotton abroad. In the past 2 years of the worst of the depression we shipped abroad more than 17,400,000 bales of cotton. In the two most prosperous years, 1928–29, when we were lending billions to foreign countries, we shipped abroad only 16,314,000 bales. In the 5 years, 1921–25, our average of cotton exports were only 6,639,000 bales when presumably Europe was replenishing its textile supplies. In the 5 years, 1929–33, since the beginning of the world depression our average cotton exports have been 7,309,000 bales.

It is not conceivable that we would have sold any more cotton had we been buying twice as much from foreign producers. They would not have bought more cotton at prevailing American prices than their capacity to consume. They would not have bought more wheat or any other commodity that they were endeavoring to produce and which they have been protecting against competitive imports.

As more than 76 percent of our import values represent unmanufactured and manufactured products of the farm, any general lowering of the tariff would adversely affect the American farmer in opening his own home market to cheap foreign farm competition.

Foreign growers have been increasing their acreage and production while we have been curtailing acreage. In 1933 we cut off 6,000,000 acres, foreign countries added 4,000,000 acres. Many foreign countries have been increasing industrial capacity while we have taken a short-sighted policy of limiting new construction even in the establishment of pulp and paper plants that would enable us to supply our own requirements. Are we now to open the way for foreign producers to enter our home markets, causing further unemployment in our factories?

What we need to do is—

To concentrate on the development of our home market by producing the things we use in the United States, giving employment to American workers, instead of trying to see how much employment we can create abroad by buying more from foreign producers.

To increase the buying power of American industrial workers so they can buy more manufactured cotton and other products of American producers.

To protect American sugar producers and American sugar workers.

To protect American clay workers and our ceramic industries, our lumber and steel, as well as our farmers against foreign imports produced by cheap labor.

To produce our own wood pulp and paper requirements. If we produced in the United the pulpwood products now imported we could give year-round jobs to 70,000 American workmen. The South can supply the raw material needed. We paid $143,000,000 for pulp and paper imports in 1933, including free of duty $5,362,000 of pulpwood and $57,398,000 of manufactured wood pulp.

The existence of thousands of local industries, and all that we have been trying to accomplish through the recovery movement in creating employment, raising wages, and reducing working hours will be at stake if we allow foreign goods to undermine our domestic trade.

RELIEF OF DEBTORS IN BANKRUPTCY PROCEEDINGS—CONFERENCE REPORT

Mr. McCARRAN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5884) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 29, 32, and 34, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: Strike out the Senate amendment numbered 1 and insert in lieu thereof the following: "whether filed before or after this section becomes effective, provided the present operations of such corporation do not exclude it hereunder, and whether or not the corporation has been adjudicated a bankrupt"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: Strike out the Senate amendment numbered 3 and insert in lieu thereof the following: "or in any territorial jurisdiction in the State in which it was incorporated. The court shall upon petition transfer such proceedings to the territorial jurisdiction where the interests of all the parties will be best subserved"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows: Strike out the Senate amendment numbered 14 and insert in lieu thereof the following:

"In case an executory contract or unexpired lease of real estate shall be rejected pursuant to direction of the judge given in a proceeding instituted under this section, or shall have been rejected by a trustee or receiver in bankruptcy or receiver in equity in a proceeding pending prior to the institution of a proceeding under this section, any person injured by such rejection shall, for all purposes of this section and of the reorganization plan, its acceptance and confirmation, be deemed to be a creditor. The claim of a landlord for injury resulting from the rejection of an unexpired lease of real estate or for damages or indemnity under a covenant contained in such lease shall be treated as a claim ranking on a parity with debts which would be provable under section 63 (a) of this act, but shall be limited to an amount not to exceed the rent, without acceleration, reserved by said lease for the 3 years next succeeding the date of surrender of the premises to the landlord or the date of reentry of the landlord, whichever first occurs, whether before or after the filing of the petition, plus unpaid rent accrued up to such date of surrender or reentry: *Provided*, That the court shall scrutinize the circumstances of an assignment of future rent claims and the amount of the consideration paid for such assignment in determining the amount of damages allowed assignee hereunder."

And the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: On page 10, line 23, of the House engrossed copy of the bill, after the word "committee", insert a colon and the following: "*Provided*, That the judge shall scrutinize and may disregard any limitations or provisions of any depositary agreements, trust indentures, committee or other authorizations affecting any creditor acting under this section and may enforce an accounting thereunder or restrain the exercise of any power which he finds to be unfair or not consistent with public policy and may limit any claims filed by such committee member or agent, to the actual consideration paid therefor"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows: At the end of the Senate amendment strike out the period and insert a colon and the following: "*Provided, however*, That such personal representative shall first obtain the consent and authority of the court which has assumed jurisdiction of said estate, to invoke the relief provided by said act of March 3, 1933. The first sentence of subdivision (m) of said section 74 is amended to read as follows: 'The filing of a debtor's petition or answer seeking relief under this section shall subject the debtor and his property, wherever located, to the exclusive jurisdiction of the court in which the order approving the petition or answer as provided in subdivision (a) is filed, and this shall include property of the debtor in the possession of a trustee under a trust deed or a mortgage, or a receiver, custodian or other officer of any court in a pending cause, irrespective of the date of appointment of such receiver or other officer, or the date of the institution of such proceedings: *Provided*, That it shall not affect any proceeding in any court in which a final decree has been entered.'"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment as follows: Strike out the Senate amendment numbered 28 and insert in lieu thereof the following:

"SEC. 3. In the administration of the act of July 1, 1898, entitled 'An act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, as amended, the district court or any judge thereof shall, in its or his discretion, so apportion appointments of receivers and trustees among persons, firms, or corporations, or attorneys therefor, within the district, eligible thereto, as to prevent any person, firm, or corporation from having a monopoly of such appointments within such district. No person shall be appointed as a receiver or trustee who is a near relative of the judge of the court making such appointment. The compensation allowed a receiver or trustee or an attorney for a receiver or trustee shall in no case be excessive or exorbitant, and the court in fixing such compensation shall have in mind the conservation and preservation of the estate of the bankrupt and the interests of the creditors therein."

And the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: Strike out the Senate amendment numbered 30 and insert in lieu thereof the following: "but the claim of a landlord for injury resulting from the rejection by the trustee of an unexpired lease of real estate or for damages or indemnity under a covenant contained in such lease shall in no event be allowed in an amount exceeding the rent reserved by the lease, without acceleration, for the year next succeeding the date of the surrender of the premises plus an amount equal to the unpaid rent accrued up to said date: *Provided*, That the court shall scrutinize the circumstances of an assignment of future rent claims and the amount of the consideration paid for such assignment in determining the amount of damages allowed assignee hereunder: *Provided further*, That the provisions of this clause (7) shall apply to estates pending at the time of the enactment of this amendatory act"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows: Strike out the Senate amendment numbered 31 and insert in lieu thereof the following:

"SEC. 7. Proceedings under section 77 of chapter 8, amendment to the act of July 1, 1898, entitled 'An act to establish a uniform system of bankruptcy throughout the United States', as amended, approved March 3, 1933, shall not be grounds for the removal of any cause of action to the United States District Court which was not removable before the passage and approval of this section, and any cause of action heretofore removed from a State court on account of this section shall be remanded to the court from which it was removed, and such order of removal vacated."

And the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment as follows: Strike out the Senate amendment numbered 33 and insert in lieu thereof the following:

"SEC. 9. That the second sentence of subdivision (b) of section 75 of the act of July 1, 1898, entitled 'An act to establish a uniform system of bankruptcy throughout the United States', as amended, is amended to read as follows: 'The conciliation commissioner shall receive as compensation for his services, including all expenses, a fee of $25 for each case docketed and submitted to him, to be paid out of the Treasury.'"

And the Senate agree to the same.

FREDERICK VAN NUYS,
PAT MCCARRAN,
DANIEL O. HASTINGS,
Managers on the part of the Senate.

HATTON W. SUMNERS,
A. J. MONTAGUE,
TOM D. MCKEOWN,
FRANK OLIVER,
RANDOLPH PERKINS,
Managers on the part of the House.

Mr. McCARRAN. Mr. President, this is a unanimous report on the corporate bankruptcy bill; and I ask for its adoption at this time.

The PRESIDING OFFICER (Mr. MCGILL in the chair). The question is on agreeing to the conference report.

The report was agreed to.

CORRECTION IN ENROLLMENT OF HOUSE BILL 5884

Mr. McCARRAN. Mr. President, I ask that the Chair lay House Concurrent Resolution 40 before the Senate.

The PRESIDING OFFICER laid before the Senate the concurent resolution (H.Con.Res. 40), which was read as follows:

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House is authorized and directed, in the enrollment of the bill, H.R. 5884, entitled "An act to amend an act entitled 'An act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, and acts amendatory thereof and supplementary thereto", to strike out in the first section of said bill "Sec. 78" and insert in lieu thereof "Sec. 77A", and in said section to strike out "section 79" wherever it appears and insert in lieu thereof "section 77B", and in said section to strike out "Sec. 70" and insert in lieu thereof "Sec. 77B."

Mr. McCARRAN. I ask unanimous consent for the present consideration of the concurrent resolution, which makes certain corrections in the conference report I have just filed, and I ask for its adoption.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

RECIPROCAL-TARIFF AGREEMENTS

The Senate resumed the consideration of the bill (H.R. 8687) to amend the Tariff Act of 1930.

Mr. AUSTIN obtained the floor.

Mr. FESS. Mr. President, will the Senator yield to me to suggest the absence of a quorum?

Mr. AUSTIN. I yield.

Mr. HARRISON. Mr. President, will the Senator withhold that suggestion for just a moment?

Mr. FESS. I withhold it.

Mr. HARRISON. If the Senator from Vermont will permit me to make an observation, I desire to say that if it is humanly possible to stay in session tonight and reach a conclusion as to this bill, I hope we may do it, and that the Senate will remain in session as long as possible.

Mr. JOHNSON. Mr. President, may I ask the Senator, merely for information, and perhaps out of curiosity, whether he said "all night"?

Mr. HARRISON. I did not say "all night", but I said I hoped we could stay here and try to finish the bill tonight.

Mr. AUSTIN. Mr. President, I ought to observe that I do not intend to delay the progress of the bill by what I have to say. I think it will not take me long.

Mr. HARRISON. If the Senator will permit me, I was not leveling my remarks at the Senator. A great many Senators have inquired whether we intended to remain in session late. We do hope to finish the bill tonight if it is possible; so I did not direct my remark to the Senator at all.

Mr. FESS. Mr. President, did the Senator direct his remark to me?

Mr. HARRISON. Not a bit in the world. The Senator from Ohio was about to make the point of no quorum, and I was thankful to the Senator for withholding the point of no quorum until we could get a quorum, if the Senator still insists on having a quorum.

Mr. FESS. Mr. President, if it is desirable to make speeches, a night session would be a splendid time for doing so. I do not object to the suggestion of a night session; but I did desire to get a quorum for my friend from Vermont, who has something worth while to say.

Mr. HARRISON. I can appreciate that; but I thought it was well to make the observation that I did at this time.

Mr. FESS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Costigan	Johnson	Pope
Ashurst	Couzens	Kean	Reynolds
Austin	Davis	Keyes	Robinson, Ark.
Bachman	Dickinson	King	Russell
Bailey	Dieterich	La Follette	Schall
Bankhead	Dill	Lewis	Sheppard
Barbour	Duffy	Logan	Shipstead
Barkley	Erickson	Lonergan	Smith
Black	Fess	Long	Steiwer
Bone	Fletcher	McCarran	Stephens
Borah	Frazier	McGill	Thomas, Okla.
Brown	George	McKellar	Thomas, Utah
Bulkley	Gibson	McNary	Thompson
Bulow	Glass	Metcalf	Townsend
Byrd	Goldsborough	Murphy	Tydings
Byrnes	Gore	Neely	Vandenberg
Capper	Hale	Norbeck	Van Nuys
Caraway	Harrison	Norris	Wagner
Carey	Hastings	Nye	Walcott
Clark	Hatch	O'Mahoney	Walsh
Connally	Hatfield	Overton	Wheeler
Coolidge	Hayden	Patterson	White
Copeland	Hebert	Pittman	

The PRESIDING OFFICER. Ninety-one Senators having answered to their names, there is a quorum present.

Mr. AUSTIN. Mr. President, I favor the agricultural amendment, and shall vote for it. I shall do so partly because if it should become the law some of the principal products of the State of Vermont, as well as the United States generally, would be removed from under the baneful shadow of the pending bill, for, regardless of what choice the Executive may make of articles to pay the cost of the trades he negotiates, regardless of the fact that he may omit therefrom the principal products of Vermont, notwithstanding that, there is always the shadow of that power overhanging the State. So, if these commodities should be removed from the bill, and the bill should thereupon be enacted, I would feel that a great benefit to the State of Vermont and to the United States generally had been ac-

complished by the Senator from California in the presentation of his amendment, and by the Senate in adopting it.

I intend to discuss only two points, and very briefly. During the course of the debate I have heard Senators who are very distinguished lawyers make the observation that authority has heretofore been given to commercial attachés to negotiate trade agreements, and being somewhat surprised by that claim, I made a very thorough search of the statutes to see whether or not the claim was accurate. I believe it to be true that the only authority granted to commercial attachés is contained in the law which I read from Supplement 7 to the Code of Laws of the United States of America, title 15, "Commerce and Trade", sections 197 and 197a entitled "Foreign Commerce Service." I read section 197:

Establishment; officers; grades: There is hereby established in the Bureau of Foreign and Domestic Commerce of the Department of Commerce the Foreign Commerce Service of the United States (hereinafter referred to as the Foreign Commerce Service), consisting of officers to be graded in the following order, and to be known as "commercial attachés, assistant commercial attachés, trade commissioners, and assistant trade commissioners."

197a. Duties of officers: Under the direction of the Secretary of Commerce (hereinafter referred to as the Secretary) the officers of the Foreign Commerce Service shall—

(a) Promote the Foreign Service of the United States;

(b) Investigate and report upon commercial and industrial conditions and activities in foreign countries which may be of interest to the United States;

(c) Perform such other duties as the Secretary may direct in connection with the promotion of the industries, trade, or commerce of the United States;

(d) Make such inspections of the foreign commerce service as the Secretary may direct.

I submit that unless, owing to human frailties, in the efforts employed by me in this search I have overlooked some provision in the statutes, there is no authority for any official of the United States or any representative of the United States to make any trade agreement whatever, save only the President of the United States, who has always exercised the power of entering into Executive agreements which did not have that scope and effect which come within the purview of the constitutional provision requiring that all treaties must be ratified by a two-thirds vote of the Senate before becoming effective, although they have been negotiated by the President.

There seems to me to have been a lack of precision, a lack of certainty regarding Executive agreements. No definition of trade agreements as used in the bill upon which anyone in the Senate has agreed, has been put into the RECORD. To be sure, the Senator from Georgia [Mr. GEORGE] stated, and I quote from page 10072 of the RECORD of May 31, 1934, as follows:

The well-recognized distinction between an Executive agreement and a treaty is that the former cannot alter the existing law and must conform to all prior statutory enactments, whereas a treaty, if ratified by and with the advice and consent of two-thirds of the Senate, itself becomes the supreme law of the land and takes precedence over any prior statutory enactments.

Mr. President, I suggest that that is not a definition; that it lacks two qualities, namely, inclusion and exclusion. It is a mere statement of a truth. It may be admitted to be entirely accurate so far as it goes, but it does not comprehend the connotation of the words "trade agreement"; it does not exclude those things which constitute a treaty, and therefore it does not distinguish at all between "trade agreement" and "treaty."

Mr. BORAH. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. BORAH. From what page did the Senator read?

Mr. AUSTIN. Ten thousand three hundred and sixty-five.

Mr. BORAH. If I understood correctly the Senator's quotation from the Senator from Georgia, even the definition given by the Senator from Georgia, would clearly bring this proposed law within the prohibition of the Constitution.

Mr. AUSTIN. Mr. President, that is my understanding also; that if we were to adopt that as a definition of "trade agreement", then the proposed law would be unconstitutional, because it undertakes to give the Executive the power to negotiate what must be construed only as a treaty when put into effect.

Mr. BORAH. Exactly. But the quotation was:

The well-recognized distinction between an Executive agreement and a treaty is that the former cannot alter the existing law.

Whereas these agreements would alter existing law.

Mr. AUSTIN. Oh, yes; they must alter the law, or there is no use for this particular bill. This measure seeks an alteration of the law in respect to rates and other exactions, to import restrictions, limitations, and all sorts of things; in fact, every aspect of tariff making.

Mr. LONG. Mr. President, may I ask the Senator, does he have any doubt that with this authority the President can go right over the quotas which we have established? Is there not sufficient authority given to the Agricultural Department and everyone else; so that, with this power given to the President, he would not be bound by the quotas we have established?

Mr. AUSTIN. Mr. President, I think this being the most recent utterance of the Congress on the subject, it would repeal or amend to the necessary extent any prior statute in pari materia, and therefore that he could do so.

I now wish to refer to such authorities as are available, touching the distinction between a trade agreement or Executive agreement and a treaty; and I make this point in advance in order that what I read from the authorities may be applied to the point as I proceed, and that is that no Executive agreement, no trade agreement was ever authorized by Congress to be made, or was ever made heretofore, which authorized the following things: Created a rate, created the form of an import duty, wrote the classification of an article, fixed charges and exactions other than duties for imports, and thereupon applied them to articles of manufacture or produce of all foreign countries. That is a strong statement, which, if true, makes absolutely unanswerable the proposition that there is no precedent for this proposed law, there is no precedent for a construction of this bill as constitutional. There is absolutely no importance or effect to all these pages from page 82 and following, found in the hearings before the Committee on Finance of the United States Senate, where the Assistant Secretary of State, Dr. Sayre, has undertaken to set forth in detail the history of Executive agreements and reciprocal treaties relating to commerce. If we recognize as correct the statement I have just made, then all that history goes for naught, because it does not apply to the present situation in any way at all. In other words, every page in that hearing may be scanned, every statement made by the learned doctor there about our history may be examined, and it will be found that not one single example exists in the history of this country of an Executive agreement or a foreign trade agreement that comprehends the points to which I have called attention and which are included in this bill.

So I should like now to refer to the authorities in order to show, if possible, experience, construction by others, practical application, and all those things that may be dug out of history from which we may provide a rule or a definition or a distinction, for it is my opinion, after much study, that no author, no lawyer, no judge, has undertaken to crystallize into any definite form the distinction between a trade agreement and a treaty, or between an Executive agreement and a treaty. I shall use those terms interchangeably. When I speak of trade agreements I mean to comprehend Executive agreements.

I first call attention to the work by Dr. Quincy Wright, professor of international law in the University of Minnesota, entitled "The Control of American Foreign Relations", which was published in 1922, and I refer to page 234:

With respect to such Presidential agreements, the questions arise: (1) What subject matter may they cover? (2) What sort of an application do they impose? No general answer can be given to the latter question. An Executive agreement may impose an absolute obligation, as would be true of the Executive settlement of a claim by an American citizen against a foreign govern-

ment. After the President has agreed to a settlement, the claim becomes res judicata, and if against the American citizen it cannot be raised by a subsequent administration against the foreign government. If injustice has been done the American citizen, it is a moral duty of the United States itself to compensate him. On the other hand, an Executive agreement may impose an obligation strictly binding only the President, who makes it, as would be true of an exchange of notes over foreign policy, such as the Root-Takahira agreement or the Lansing-Ishii agreement.

In general, the President can bind only himself and his successors in office by Executive agreements, but in certain cases Executive agreements may impose a strong moral obligation upon the treaty-making power and Congress, and they may even be cognizable in the courts. The form of the obligation does not affect its obligatory character. Executive agreements may be by exchange of notes, protocols, cartels, modi videndi, etc., but in any case the obligation depends upon the subject matter.

The last few words constitute the meat of this particular authority—

The obligation depends upon the subject matter.

In other words, he might have said, "Every tub rests upon its own bottom." We have to examine every bill that is presented to us on the basis of its own subject matter in order to ascertain whether its scope and effect are of sufficient importance to the public welfare in order to come within those safeguards which the people require of the Congress and of the Chief Executive with respect to international agreements which affect them.

Mr. President, I turn to volume 20 of the Political Science Quarterly, page 388, where is found a discussion by such a great authority as John Bassett Moore. I do not need to introduce him to the Senate of the United States. In this article, entitled "Treaties and Executive Agreements", a very comprehensive discussion takes place. Of course, I cannot weary the Senate or take the space in the RECORD to do more than extract from it what seems to me pertinent in connection with the objective of ascertaining a dividing line between Executive agreements and treatis and applying that distinction to this measure, in order to ascertain whether or not this measure undertakes to violate the terms of the Constitution. Now I read that portion of this article entitled "The terms 'treaty', 'convention', 'protocol'":

In diplomatic literature, the words "treaty", "convention", and "protocol" are applied, more or less indiscriminately, to international agreements. The words "convention" and "protocol" are indeed usually reserved for agreements of lesser dignity, but not necessarily so. In the jurisprudence of the United States, however, the term "treaty" is properly to be limited, although the Federal statutes and the courts do not always so confine it, to agreements approved by the Senate. Such an agreement may be and often is denominated a "convention", and perchance might be called a "protocol", but it is also, by reason of its approval by the Senate, in the strict sense a "treaty", and possesses, as the product of the treaty-making process, a specific legal character. By the Constitution of the United States a "treaty" is a "supreme law of the land", having the force of an act of congressional legislation and overriding any inconsistent provisions not only in the constitutions and laws of the various States, but also in prior national statutes.

Here is another characteristic that helps to identify a treaty from one of these agreements that may be manufactured by mere act of Congress, authorizing the Executive or anyone else, it matters not who, to make an agreement. In the one case the action is taken by a mere majority vote of the two Houses; the other requires a two-thirds vote of the Senate in the nature of ratification. In the one the solemnity and dignity of the result is such that it overrides prior statutes; it has the effect of the supreme law of the land; and if a law undertakes to occupy the same ground with the treaty the law goes down and the treaty stands, whereas in the case of a mere executive agreement, it may be changed and it must be and is changed if Congress acts upon it and changes it. Does that not lead us somewhere with respect to this bill? If a trade agreement is subject to a subsequent act of the legislature to the degree that it is changed by it, if a trade agreement is also subject to all the statutes that have preceded it, then we observe a characteristic which is entirely inconsistent with this measure, for this measure gives time and effect to these contracts which cannot be shortened and cannot be affected. It gives legal operation to them which cannot be changed and cannot be cut off by an act of Congress.

These agreements contemplated by the pending bill may endure for 3 years, and until due notice has been given of not more than 6 months. Congress may come and go and do what it pleases, but it cannot change that obligation during the period of the contract. Therefore, is it not obvious that this agreement, this contract, this convention, this protocol, or whatever name it may be called by, has the attribute of permanency, of supremacy, of being supreme over the laws; and therefore we have one identifying characteristic, have we not, of a treaty as opposed to a simple executive agreement?

Some examples are given of purely executive agreements, which throw light upon the pursuit of truth here. Under the title, "Examples of Purely Executive Agreements", found at page 389 of the same book——

Mr. HATFIELD. Mr. President——

The PRESIDING OFFICER (Mr. LOGAN in the chair). Does the Senator from Vermont yield to the Senator from West Virginia?

Mr. AUSTIN. I yield.

Mr. HATFIELD. The argument has been made here, as I understand, that on notice for a period of 6 months the 3-year contract shall be terminated.

Mr. AUSTIN. Within 3 years?

Mr. HATFIELD. Within 3 years, upon 6 months' notice.

Mr. AUSTIN. Let us examine that.

Mr. HATFIELD. I may say that that was pointed out by an argument presented to the Senate.

Mr. AUSTIN. Let me read the bill. I read from page 5 of the bill, after line 11:

(b) Every foreign trade agreement concluded pursuant to this act shall be subject to termination, upon due notice to the foreign government concerned, at the end of not more than 3 years from the date on which the agreement comes into force, and, if not then terminated, shall be subject to termination thereafter upon not more than 6 months' notice.

I do not think that is obscure in its meaning. It seems perfectly clear that that means that the agreement when entered upon for 3 years will endure for 3 years; that it may not be terminated by due notice within 3 years; and that only after 3 years have gone by, if it shall not be terminated at the end of 3 years by due notice referred to therein, it may then be terminated, although it may run for 20 years or more, provided a similar due notice of not exceeding 6 months shall not be given. But in order to terminate it at the end of 3 years, and not have it hold over, it is necessary to give a notice looking to the end of the term before the 3 years have arrived. Due notice must be given at the end of the term it is intended to conclude the agreement in order to accomplish that result.

Mr. HATFIELD. Mr. President, will the Senator yield further?

Mr. AUSTIN. I yield.

Mr. HATFIELD. Then, unless at the end of 3 years notice shall be given, which must extend over a period of 6 months, the treaty may run over for an indefinite period of time, as the Senator has pointed out.

Mr. AUSTIN. The bill so provides.

I now will read what I was about to read when interrupted, as follows:

Such being the nature and meaning of the term "treaty" in the jurisprudence of the United States, we find that the Government has been in the habit of entering into various kinds of agreements with foreign powers without going through the process of treaty making. The conclusion of agreements between governments with more or less formality, is in reality a matter of constant practice, without which current diplomatic business could not be carried on. A question arises as to the rights of an individual, the treatment of a vessel, a matter of ceremonial, or any of the thousand and one things that daily occupy the attention of foreign offices without attracting public notice: The governments directly concerned exchange views and reach a conclusion by which the difference is disposed of. They have entered into an international "agreement"; and to assert that the Secretary of State of the United States, when he has engaged in routine transactions of this kind, as he has constantly done since the foundation of the Government, has violated the Constitution because he did not make a treaty, would be to invite ridicule. Without the exercise of such power it would be impossible to conduct the business of his office.

But, in addition to agreements made in the transaction of current business, we find that the Executive has entered into international agreements of a more formal kind without resorting to the treaty-making process.

From this point I do not quote exactly, but merely point out examples such as, for instance, the agreement of 1817 for limitation of naval armaments on the Great Lakes; the cession to the United States of Horseshoe Reef in Lake Erie and its acceptance by the United States.

To be sure, in the latter instance the United States Congress did act upon the matter by making an appropriation for the erection of a lighthouse, and other acts in connection with that cession; but, so far as the question before us is concerned, we ought not to let these facts confuse us at all. It had more than a mere routine effect. It had more importance than the routine affairs to which I first called attention.

In 1882 an agreement was made between the United States and Mexico for the reciprocal passage of troops of the two countries across the border when in pursuit of hostile Indians.

In 1898 the protocol with Spain in settlement of the Spanish-American War. Of course there was after that a treaty of peace.

This marks a certain class of executive agreements which is well defined, namely, the type of agreement which contemplates a treaty that is to be entered into in the future.

I wish to pass over some pages to page 393, in order to point out in a general way the types of agreements which have been made under authority of an act of Congress passed in advance, for certainly there is a definite class of those executive agreements which are made under acts of Congress. The author, Judge Moore, states as follows, quoting from page 393:

It is a peculiarity of these agreements that, so long as the statute under which they are concluded stands unrepealed—

Please note that word "unrepealed", showing the temporary duration of these agreements.

So long as the statute under which they are concluded stands unrepealed, they have precisely the same municipal force as treaties, being in effect laws of the land. And sometimes they relate to subjects which might be and perhaps have been dealt with by the treaty-making power.

I am going hastily through this article in order to point out some of the types. The first type is postal treaties, which have already been called to the attention of the Senate by the learned Senator from Illinois [Mr. LEWIS]; reciprocity arrangements, discriminating duties, copyrights, and trade marks, Indian treaties, the modus vivendi, the settlement of pecuniary claims. Those are the general types to which Judge Moore refers in this excellent article by him.

I wish to recur only to the reciprocity arrangements, because they are the nearest type to the arrangements suggested in the pending bill. This is what Judge Moore said about that, quoting from page 394:

Another class of international agreements, concluded by the Government of the United States under the authority of an act of Congress, is that of arrangements with foreign powers in relation to commercial reciprocity. Such were the agreements made by the United States under section 3 of the act of October 1, 1890, commonly called the "McKinley Act." By section 3 of this act the President was authorized to impose duties at certain rates—

"Certain rates!" That is the point—

on specified articles—

There is another direction and rule of measure and conduct—

whenever, in his judgment, the duties imposed by the country of exportation on goods imported from the United States were, in view of the free admission of such specified articles into the United States, "reciprocally unequal or unreasonable." This retaliatory provision was used for the purpose of securing reciprocal commercial agreements with other powers; and 10 such agreements were in fact concluded, with Austria-Hungary, Brazil, the Dominican Republic, Germany, Great Britain, Guatemala, Honduras, Nicaragua, Salvador, and Spain. These agreements remained in force till they were terminated by section 71 of the tariff of August 27, 1894, generally known as the "Wilson-Gorman Act."

The subject of commercial arrangements is also provided for by the act of July 24, 1897, called the "Dingley Act."

He discusses that and says, among other things:

Whenever an agreement is made by which the products and manufactures of the United States are, in his judgment, admitted on reciprocal and equivalent terms, he is authorized—

Of course, this is the milk of the coconut:

He is authorized to suspend by proclamation the imposition and collection of duties on the article in question.

That is a vastly different power from legislating the rate of duty or legislating import restrictions or doing any of the other things which are provided for in this bill, such as writing the classification of articles or fixing the charges and exactions other than duties on imports. There was a definite rule. He took it or left it. It was so much per article or so much percent ad valorem, or it was nothing. The condition upon which and when the law should apply to it was the only matter upon which the Executive had to pass. That is well-known authority within the Constitution—the right to determine when the law shall be applied to the subject.

Mr. LEWIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Vermont yield to the Senator from Illinois?

Mr. AUSTIN. I yield to the Senator.

Mr. LEWIS. I ask the able Senator if he has not noted that in many of the agreements to which he has alluded, which his industry clearly has developed after much research, there has been no submission of them to the Senate, the word "treaty" being really taken as a mere expression of a compact? And may I take the liberty of inviting the attention of the Senator to the fact that in the case of the bill to which he has just referred—as the eminent Senator from Maine [Mr. WHITE], who sits near him, will recall in his official relation at that time—I cast my first vote in the House of Representatives, where, being a Democrat, as I am if I understand the definition, I nevertheless voted for a measure of tariff, because of my conception that tariff is an economic adjustment of business, and voted for the very measure which the able Senator from Vermont is now reading.

I ask the Senator, has he not, in the very careful research which his industry indicates he has given, disclosed the fact that none of the particular agreements referred to by Judge Moore in his treatise was ever submitted to the Senate for ratification?

Mr. AUSTIN. That is just what I myself observed, and what I am trying to show to the Senate. I am undertaking to give as thorough a history of executive agreements not submitted to the Senate for ratification as I can give in the time at my disposal, in order to have it made clear that the entire story of executive agreements and trade arrangements made by the President under authority given in advance by Congress shows that they are limited in their scope, and that never before in the entire history of the United States has a single agreement been made or authorized which had the effect of giving the President the power to create the duty, to create the form of the import duty, to write the classification of the article, to fix the charges and other exactions—that is, the exactions other than duties—for imports, and to apply the rates determined upon to articles produced in all foreign countries. Never before in the history of this country was such a thing attempted. Heretofore, in every one of the instances to which I have referred—and I have not finished the recital—there has been a rule more definite than the rule contained in the pending bill, which would guide the President, or the other officer who executed the duties, in applying the law. That is the point. That was the sole principle which supported these laws against the attack that they were unconstitutional when they reached the Supreme Court for consideration.

Now I call attention to another eminent authority, Edward S. Corwin, professor of politics at Princeton University, author of The President's Control of Foreign Relations. This book was published in 1917. At page 117 this learned doctor says:

Turning now to the class of agreements which rests on the power of the President alone, we may first consider certain ones

which he has entered into by virtue of his powers as Commander in Chief of the Army and Navy.

Then he goes on and tells about the early conventions which are set forth in rather informal notes between various countries—Great Britain and the United States, Mexico and the United States—and finally he refers to a very interesting episode, the action of President Theodore Roosevelt with reference to Santo Domingo. This is spoken of at page 120, as follows:

The question that suggests itself at this point is: How, in the face of all these devices, is the Senate to be assured its due participation in treaty-making? Whenever it is desirable that an agreement have the force of domestic law, the Senate must, ordinarily, certainly be resorted to.

This is the same distinction, expressed in another way, to which I alluded some time ago.

Yet again, what executive authority has called into existence the same authority may also abate. For the rest, however, the criteria seem lacking for a nice differentiation of the prerogative under discussion from the treaty-making power, with the result that its curtailment, like that of the power of the President in appointing "special agents", is a problem of practical statesmanship rather than of constitutional law.

This was proved most strikingly in the case of the agreement which President Roosevelt made in 1905 with Santo Domingo, for putting the customs houses of that island under American control. Mr. Roosevelt tells the story of this agreement in his autobiography, as follows:

"The Constitution did not explicitly give me power to bring about the necessary agreement with Santo Domingo. But the Constitution did not forbid my doing what I did. I put the agreement into effect, and I continued its execution for 2 years before the Senate acted; and I would have continued it until the end of my term, if necessary, without any action by Congress. But it was far preferable that there should be action by Congress, so that we might be proceeding under a treaty which was the law of the land and not merely by a direction of the Chief Executive which would lapse when that particular Executive left office. I therefore did my best to get the Senate to ratify what I had done. There was a good deal of difficulty about it. * * * Enough Republicans were absent to prevent the securing of a two-thirds vote for the treaty, and the Senate adjourned without any action at all, and with the feeling of entire self-satisfaction at having left the country in the position of assuming a responsibility and then failing to fulfill it. Apparently the Senators in question felt that in some way they had upheld their dignity. All that they had really done was to shirk their duty. Somebody had to do that duty, and accordingly I did it. I went ahead and administered the proposed treaty anyhow, considering it as a simple agreement on the part of the Executive which would be converted into a treaty whenever the Senate acted. After a couple of years the Senate did act, having previously made some utterly unimportant changes which I ratified and persuaded Santo Domingo to ratify. In all its history Santo Domingo has had nothing happen to it as fortunate as this treaty, and the passing of it saved the United States from having to face serious difficulties with one or more foreign powers."

Now we pass on to what the doctor says:

In other words, the only important difference between the President's "agreement" and the "treaty" which superseded it is to be found in the fact that the latter was ratified by the Senate, with the result, however, of putting affairs on a durable basis.

Do we not get something out of this? Is there not in the heart of this extract this principle, to add to those which we have extracted from the others, namely, the durability?

But it was far preferable that there should be action by Congress, so that we might be proceeding under a treaty which was the law of the land and not merely by a direction of the Chief Executive which would lapse when that particular Executive left office.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield to the Senator from Maine.

Mr. WHITE. It occurs to me that the action of President Roosevelt in the instance just cited was almost identical with the action of President McKinley in the protocol which anticipated or was preliminary to the treaty of peace with Spain. In each instance the act was what might be called "preliminary" to an anticipated treaty which was to be ratified by the duly constituted ratifying agency of the Government.

Mr. AUSTIN. Mr. President, I thank the Senator from Maine for his comment. I am in hearty agreement with him about it. I think, crystalized into the form of principle, that what we gather from this particular citation is that an executive agreement is one which lapses with the end of the term of the Executive.

Apply that to this bill, and what do we find? This bill is intended and designed to endure after the lapse of the term of the Chief Executive which is now pending. We have to assume no politics in this to get the point. It is a question of the term. The term of his office will expire before the term of these agreements. Therefore, are these agreements executive agreements, as tested by the principle that an executive agreement is one which lapses with the end of the term of the Executive? They are not. The agreements provided for by this bill are treaties because of that distinction.

Now I pass to Samuel B. Crandall, of the bar of New York and the District of Columbia, and his work entitled "Treaties, Their Making and Enforcement", published in 1916. At page 122 and following, Mr. Crandall discusses agreements reached by the Executive in virtue of acts of Congress, and particularizes respecting reciprocal agreements. All the treaties following 1890 to which allusion has been made heretofore in the debate are referred to in this discussion, and the author says as follows:

Speaking for the Court—

That is, the Court in the case of Field against Clark, referring to these powers—

Mr. Justice Harlan said: "As the suspension was absolutely required when the President ascertained the existence of a particular fact, it cannot be said that in ascertaining that fact and in issuing his proclamation, in obedience to the legislative will, he exercised the function of making laws. Legislative power was exercised when Congress declared that the suspension should take effect upon a named contingency. What the President was required to do was simply in execution of the act of Congress. It was not the making of law"—

As it is in this case. He was a mere agent of the law-making department to ascertain and declare the event upon which its expressed will was to take effect. I omit some, and read further:

"It further authorized the President, when such concessions were in his judgment reciprocal and equivalent, to suspend by proclamation the collection on these articles of the regular duties imposed by the act, and to subject them to special rates as provided for in the section."

There is nothing in the pending bill which establishes a rate or provides for special rates. The bill authorizes the President to legislate upon that point.

I now refer to Fifteen Yale Law Journal, an article by James T. Barrett, of the Michigan bar, on International Agreements Without the Advice and Consent of the Senate. I read at page 18, only a short extract, because my time is passing:

It might be supposed that an agreement with a foreign state, to which the approbation of the Senate has not been given, is a thing unknown to our constitutional practice. This is, however, not the fact, and it will be the purpose of this article to point out that there are certain classes of international agreements in the making of which the Senate does not have a share.

Turning to page 19, this author refers to some pertinent comment by Judge Story, written in 1833, saying:

Judge Story, writing in 1833, considered that the precise distinction between the words, "treaty", "agreement", and "compact" was not clear. He seemed inclined, however, to assign to the first term engagements of a political character. The other two, he thought, might apply to "what might be deemed mere private rights of sovereignty", such as questions of boundary, interests in land, situated in the territory of each other, and other internal regulations for the mutual comfort and convenience of states bordering on each other.

That is the end of what he quotes from Judge Story on the Constitution. The author states:

The meaning of the words "treaty", "agreement", and "compact", as applied in international relations was discussed by Chief Justice Taney in the case of Holmes against Jennison in the year 1840.

That case was reported in 14 Peters, 540.

The question here involved was the right of a State (Vermont) to surrender a fugitive from justice, on the request of a foreign government (Lower Canada), and it was there held that the surrender might not lawfully be made, because it necessarily involved an agreement between a State and a foreign power to which the assent of Congress had not been given. In considering the meaning of the words "treaty", "agreement", and "compact" as used

in article I, section 10 of the Constitution, Chief Justice Taney observed that "the words 'agreement' and 'compact' cannot be construed as synonymous with one another."

That is an important thing. That is one of the principles to be taken from this particular citation. They cannot be regarded as synonymous.

The PRESIDING OFFICER. The Senator's time on the amendment has expired.

Mr. AUSTIN. I will continue on the bill. The quotation concludes:

And still less can either of them be held to mean the same thing with the word "treaty" in the preceding clause.

I now refer to page 63 of the Yale Law Journal, being a second chapter of this article by Mr. Barrett, of the Michigan bar, in which he gives us certain information, as follows:

International agreements entered into by the President, and which become binding, without the concurrence of the Senate, may be classified as follows: (1) Agreements authorized by act of Congress; (2) agreements entered into by virtue of the military powers of the President; (3) modi vivendi and other provisional agreements; (4) agreements for the adjustment of claims of American citizens against foreign governments.

He discusses that first classification as follows:

1. Agreements entered into by virtue of an act of Congress differ from ordinary treaty arrangements, in that they have the sanction of a majority of both Houses of Congress, instead of the vote of two-thirds of the Senators present in executive session. They also are usually entered into subsequent to the passing of the enabling act of Congress, whereas with treaties the negotiations, in theory at least, precedes action by the Senate.

As illustrative of these agreements, this author refers to the same agreements to which I have already referred as succeeding the Tariff Act of 1890 and the Tariff Act of 1897.

Referring to page 70, we get at what the author's understanding of the reason of this power is. He says:

In the United States, as we have seen, the participation of Congress has manifested itself chiefly in relation to regulations of commerce, and as to trade marks, copyright, and postal regulations. In all of these cases there has been a general law, in pursuance of which the President has made agreements. In all, except the case of postal conventions, the theory on which the President acts, is that he is merely putting into execution a law whose operation is contingent upon the existence of certain facts—reciprocal legislation or practice in a foreign state.

The author reaches the following conclusion on page 82:

From the foregoing facts and precedents we may derive the following conclusions:

That an arrangement with a foreign power, whether made by a State, with the consent of Congress, or by the President with or without that consent, is not a contract included under the term "treaty" as used in the Federal Constitution.

That an agreement, if so made by a State, comes within this category if—

Here is the point—

if it relates to local or temporary matters, and especially, if it relates to property rights rather than to political objects.

That the President, under an act or resolution of Congress, and by virtue of his duty to see that the laws are faithfully executed, may make agreements to carry such legislation into effect.

That the President alone may enter into an agreement where it (a) involves an exercise of the military power, (b) regulates temporarily a matter to be ultimately adjusted by formal treaty, (c) relates to private claims against foreign governments.

That the President, by virtue of a general arbitration treaty, specifically enumerating certain causes to be referred to arbitration, may lawfully make the agreements necessary for that purpose, without submitting the same to the Senate for its approval.

These conclusions, as well as the facts stated by this author, show that never in the history of the exercise of this power by the President, when given power by Congress, has it ever been employed in a case which undertook what is undertaken in this instance, namely, to invest the President with the power to create a rate, to establish a form of import duties, to write a classification of articles, to fix charges and exactions other than duties for imposts, and to make them applicable to commodities from every nation on earth. That one power to create import restrictions without any limitations upon him whatever is obviously legislative, and is a power which never before has been granted to the President. That is a political power; that is a power which affects the public welfare generally; and that is a distinguishing feature which we dig out of this particular author.

I refer now to Charles Cheney Hyde, who is probably well known to the Senate. He has published an important work on international law, chiefly as interpreted and applied by the United States. I read now, however, from an article by him in Seventeenth Greenbag, page 229, where he discusses the exercise of power, under the tariff acts of 1890 and of other years, to make executive agreements, and he refers to the exercise of power in detail.

I consider this comment very important. I believe it should have influence with the Senate, because it is the judgment and opinion of an expert upon this subject, a man who had special knowledge and special experience. He said of the reciprocity agreements made under these several tariff acts as follows:

It is to be observed that these reciprocity arrangements, although expressed in the form of contract, imposed no restriction on the United States or other parties thereto to alter their tariff schedules and thus terminate their obligations to exact reduced or limited duties on articles brought into their territory.

Is that not a test of the character of this proposed act? This measure is to be so effective in time and in scope and in objective as to bind the Congress of the United States when once the power under it is exercised so that it may not within 3 years, in any event, change the rate of duty that is so established by the Chief Executive under this authority and power. Worse than that; it binds the hands of Congress so that Congress may not change these limitations, prohibitions, classifications, forms of import duty, charges, and exactions other than duties, imposed on importations or imposed for the regulation of imports. We, the United States, become bound to every country on earth by one agreement made with one small country anywhere on earth with respect to such article or articles as are comprehended in that agreement and the duties thereon fixed or as to any of the other classifications or limitations made. We become bound for at least 3 years, and we cannot during that period alter the tariff schedules, we cannot exact, reduce, or limit duties on those articles during the whole period of time. That is the test which determines the fact that these agreements will not be trade agreements, according to precedents or according to theory, but will have such power and scope and effect that they should have the solemnity of ratification by the Senate.

Mr. FESS. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. FESS. In case we wish to repeal the particular authority which we are about to grant, and the President should not look with favor upon it, it would take two-thirds of both Houses to do it.

Mr. AUSTIN. That is true. That question was asked me when I was previously discussing the subject. At that time I did not understand its scope, but it is apparent that if we should undertake to repeal this bill when it shall become a law the same rules that affect the veto would affect such an attempt, and the degree of vote indicated would be required.

I do not undertake, Mr. President, to formulate the rule. I do not undertake to write a definition on my feet. I think I am not qualified to make a definition that is general in its scope, that is exclusive and inclusive enough to fit all cases and to be an accurate test in every case. What I do think is that whenever a bill is presented for enactment by Congress, that particular bill must be tested not with reference to probabilities but with reference to every possibility under that bill. We should test this bill on that basis, and so doing, applying the principles which have come up differently in every instance, and been discussed by so many different authorities, applying the precedents—and they are numerous—it is seen that there is nothing in the history of this subject which justifies any other conclusion save that the power granted to the President to fix rates, the power granted to the President with respect to rate and form of import duties, the power granted to the President to write the very terms which shall characterize the classification of articles, the power to fix limitations, prohibitions, charges, and exactions other than duties, have such scope, have such political effect, have such duration

in time, and become so far the supreme law of the land, if the conception of the bill shall be carried out, that they are entitled to have validity only if they have been passed upon by a two-thirds vote of the Senate and are therefore treaty powers.

Mr. HEBERT. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. HEBERT. I think the Senator discussed the effect of paragraph (b) on page 5 of the bill, regarding the termination of the agreements; but I was not quite clear in my mind, especially as I read that provision in connection with the statement made by the Senator from Mississippi [Mr. HARRISON] in his speech appearing at page 8989 of the CONGRESSIONAL RECORD of May 17. The Senator will observe that paragraph (b) reads:

(b) Every foreign-trade agreement concluded pursuant to this act shall be subject to termination, upon due notice to the foreign government concerned, at the end of not more than 3 years from the date on which the agreement comes into force, and, if not then terminated, shall be subject to termination thereafter upon not more than 6 months' notice.

I suppose that the effect of that provision would be to make such trade agreements continue in effect 3 years from and after their date, during which time they could not be terminated. They could be terminated after the expiration of 3 years upon due notice, and if not terminated at the end of 3 years, then they would be subject to termination on not more than 6 months' notice.

In that connection, let me read the statement of the Senator from Mississippi to which I have alluded. It is on page 8989.

The PRESIDING OFFICER. The time of the Senator from Vermont [Mr. AUSTIN] has expired. It is now 4 o'clock.

Mr. HEBERT. I am sorry to take up the Senator's time. I wanted to have his view on this one point.

I quote from the statement of the Senator from Mississippi:

In other words, after 3 years from the enactment of the law the President will have no more authority to enter into these trade agreements, and if trade agreements are made, say two and a half years from now, they might run along for 3 years, but they can be terminated at any time after that time upon 6 months' notice.

And then in the preceding paragraph, referring again to the terms of these agreements:

These terms must provide for opportunity to terminate the agreements on not exceeding 6 months' notice at any time under 3 years from the date on which the agreements come into force.

Mr. AUSTIN. Mr. President, if that were intended by the bill I cannot imagine phrasing the bill in a way to confuse it any more than its present phraseology does. This bill expressly says the agreement may be terminated at the end of 3 years if due notice is given. The implication is that the agreement will continue in effect, subject to termination upon a notice to be made within 6 months of the operation of the notice, after that time of 3 years. There is absolutely nothing in clause (b) providing for the termination of agreement within 3 years or which enables anyone to terminate the agreement within 3 years. It makes the agreements operative for 3 years without termination by anyone.

My opinion is, Mr. President, that if the bill shall be passed, and agreements shall be attempted to be made under its provisions, they will not be good for 3 minutes. They will not get by the first test made in the Supreme Court of the United States, because I think it is perfectly absurd to undertake to give to the Chief Executive power to place an obligation to this effect upon the United States without submitting it to the Senate for ratification by two-thirds vote.

Mr. HEBERT. Mr. President, I have already discussed what I consider the practical effect of the enactment of the bill. On a previous occasion I tried to show what I believe would be the result in the industrial sections of the country if the measure should be enacted into law. At that time I made no reference to the constitutional provision involved, nor did I consider the question from the standpoint of the treaty-making power. I now want to address myself to that phase of the question. It has already been discussed here at some length, but I find my views are not quite in accord with those expressed by Senators on the other side of the Chamber in relation to that particular phase of the question under debate.

I think we are all agreed that the treaty-making power under the Constitution resides in the Chief Executive and the Senate. Where we come to the parting of the ways is in our conception of what is a treaty and whether there is any difference in point of fact between a treaty and an executive agreement, to which reference has repeatedly been made.

The first question which I wish to propound is, What is a treaty? Answering the question I bring to the attention of the Senate the observations of some of the most distinguished writers on international law. I shall not quote from them at great length, but sufficiently for the Senate to know what their views are in relation to treaties, what constitutes a treaty, and how treaties are to be entered into and ratified.

First I quote from Woolsey's Introduction to the Study of International Law, and I read from section 101, "Of the right of contract and especially of treaties." He said:

SEC. 101. Of the right of contract and especially of treaties: A contract is one of the highest acts of human free will; it is the will binding itself in regard to the future, and surrendering its right to change a certain expressed intention, so that it becomes morally and jurally a wrong to act otherwise; it is the act of two parties in which each or one of the two conveys power over himself to the other in consideration of something done or to be done by the other. The binding force of contracts is to be deduced from the freedom and foresight of man, which would have almost no sphere in society or power of cooperation unless trust could be excited. Trust lies at the basis of society; society is essential for the development of the individual; the individual could not develop his free forethought, unless an acknowledged obligation made him sure in regard to the actions of others. That nations, as well as individuals, are bound by contract, will not be doubted when we remember that they have the same properties of free will and forecast; that they could have no safe intercourse otherwise, and could scarcely be sure of any settled relations toward one another except a state of war, and that thus a state of society, to which the different needs and aptitudes of the parts of the world invite men would be impossible. We have already seen, that without this power a positive law of nations could not exist, which needs for its establishment the consent of all who are bound by its provisions. National contracts are even more solemn and sacred than private ones, on account of the great interests involved of the deliberateness with which the obligations are assumed, of the permanence and generality of the obligations—measured by the national life, and including thousands of particular cases—and of each nation's calling, under God, to be a teacher of right to all within and without its borders.

Contracts can be made by states with individuals or bodies of individuals, or with other states. Contracts between states may be called "conventions" or "treaties." Among the species of treaties those which put an end to a war and introduce a new state of intercourse, or treaties of peace, will be considered here, only so far as they partake of the general character of treaties; their relations to war will be considered in the chapter devoted to that subject.

SEC. 102. Treaties allowed under the law of nations are unconstrained acts of independent powers, placing them under an obligation to do something which is not wrong, or—

"1. Treaties can be made only by the constituted authorities of nations, or by persons specially deputed by them for that purpose. An unauthorized agreement, or a sponsio, like that of the consul Postumius at the Caudine Forks, does not bind the sovereign, it is held, for the engager had no power to convey rights belonging to another. And yet it may be morally wrong in a high degree for the sovereign to violate such an engagement of a subordinate; for it might be an act of extreme necessity, to which the usual forms of governmental proceedings would not apply. Moreover the actions of military or naval commanders must be to a certain extent left without positive restrictions, and usage might be pleaded for many transactions of this nature. Again, from the nature of the case, a faction, a province, or an integral part of a close confederation has no treaty-making power, although a loose confederation, like the Germanic, might exist, while conceding such a prerogative to its members."

I quote now from Anson's Law of the Constitution, as follows:

This much appears to be certain: that where a treaty involves either a charge on the people or a change in the law of the land it may be made, but cannot be carried into effect, without the sanction of Parliament. Such treaties are therefore made subject to the approval of Parliament and are submitted for its approval before ratification, or ratified under condition.

Such are treaties of commerce which might require a change in the character or the amount of duties charged on exported or

imported goods; or extradition treaties which confer on the executive a power to seize, take up, and hand over to a foreign state persons who have committed crime there and taken refuge here.

It will be observed that the writer in the article from which I have quoted refers to the necessity of parliamentary sanction before a treaty may be made effective. There has been very serious question in the minds of writers on international law whether that is really so, for example, under the form of government that obtains in England. Of course, we know that in our own country treaties can be made in no way other than that provided in our fundamental law; that is, they must be negotiated by the Chief Executive and must be ratified by two-thirds of the Senate. In England it has been held that the sovereign might of his own volition and without the concurrence of Parliament enter into treaties; but, of course, the conditions in this country are not as they are there.

It seems to me we have gone far afield in our definition, and I repeat we have come to the parting of the ways because the so-called "Executive agreements" are held, on the part of those who argue in favor of the bill, not to be treaties within the meaning of our Constitution and not required to be ratified by the Senate.

I desire to quote now from an article by Butler on The Treaty-Making Power of the United States. I read section 122, page 212, of volume 1 of that work, as follows:

A treaty negotiated by the Secretary of State of the United States and the British Ambassador relating to Canadian matters might be ratified by the Senate and by the foreign office in London; if it were unacceptable to the Canadian Parliament, the necessary legislation or appropriations to carry it into effect might not be passed; in that manner the final effect of an unsatisfactory treaty might be defeated; and, therefore, as a matter of practice and policy the treaty-making power is not now, as a general rule, exercised by the British Crown except through the agency of commissioners representing the colonies whose interests are to be affected; the final exchange of ratifications of negotiated treaties is also generally withheld until the parliaments of the colonies affected have expressed their approval. Notwithstanding this practice, however, the principle remains unaffected that the treaty is concluded by the highest sovereign power and not through the colonial government. The negotiating commissioners always hold their powers from the Crown, and not from any colonial authority; in fact, if negotiations in regard to a treaty affecting only colonial interests were commenced by any nation with persons claiming to represent any colony of Great Britain, the first step would be the examination of the powers of the plenipotentiaries, and only such commissions, or as they are called in diplomatic terms, "full powers", as emanated from the foreign office at London with the royal approval, and so certified by the Secretary of Foreign Affairs of the Imperial Government, would be accepted as authority for the continuance of the negotiations.

Precisely that condition obtained in the efforts of the United States some years ago to effect reciprocal trade agreements with the Dominion of Canada.

The views of William Rawle, on the subject of treaties, were expressed by him away back in 1825. He says (par. 261, p. 396):

In its general sense we can be at no loss to understand the meaning of the word "treaty." It is a compact entered into with a foreign power, and it extends to all those matters which are generally the subjects of compact between independent nations. Such subjects are peace, alliance, commerce, neutrality, and others of a similar nature. To make treaties is an essential attribute of a nation. One which disabled itself from the power of making, and the capacity of observing and enforcing them when made, would exclude itself from the international equality which its own interests require it to preserve, and thus in many respects commit an injury on itself. In modern times and among civilized nations we have no instances of such absurdity. The power must, then, reside somewhere. Under the Articles of Confederation it was given with some restrictions, proceeding from the nature of that imperfect compact, to Congress, which then nominally exercised both the legislative and executive powers of general government. In our present Constitution no limitations were held necessary. The only question was where to deposit it. Now, this must be either in Congress generally, in the two Houses exclusive of the President, in the President conjunctly with them, or one of them, or in the President alone. * * *

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Mr. Tucker's views as to limitations, however, are here quoted at length in regard to the effect of treaties upon the essential liberties of the people. In that respect he says:

"A treaty, therefore, cannot take away essential liberties secured by the Constitution to the people. A treaty cannot bind the United States to do what their Constitution forbids them to do. We may suggest a further limitation. A treaty cannot compel any department of the Government to do what the Constitution submits to its exclusive and absolute will. On these questions the true canon of construction, that the treaty-making power, in its seeming absoluteness and unconditional extent, is confronted with equally absolute and unconditional authority vested in the judiciary. Therefore, neither must be construed as absolute and unconditioned, but each must be construed and conditioned upon the equally clear power vested in the others. For example, Congress has power to lay and collect duties; the President and Senate have power to make and contract with a foreign nation in respect to such duties. Can any other construction be given to these two apparently contradictory powers than that the general power to make treaties must yield to the specific power of Congress to lay and collect all duties; and while the treaty may propose a contract as to duties on articles coming from a foreign nation, such an executory contract cannot be valid and binding unless Congress, which has supreme authority to lay and collect duties, consents to it. If it is then asked, how are you to reconcile these two powers which appear to be antagonistic, the answer is clear. Congress has no capacity to negotiate a treaty with a foreign power. The extent of its Membership makes this impracticable. The Constitution, therefore, left the House of Representatives out of all consideration in negotiating treaties. The executory contract between the United States and a foreign nation is therefore confided to the one man who can conduct the negotiations, and to a select body who can advise and consent to the treaty he has negotiated. But this executory contract must depend for its execution upon the supreme power vested in Congress 'to lay and collect duties.' It is therefore a contract not completed, but inchoate, and can only be completed and binding when Congress shall by legislation consent thereto, and lay duties in accordance with the executory contract or treaty. The same reasoning may apply to all of the great powers vested in Congress, such as to 'borrow money, regulate commerce, coin money, raise armies and provide a navy, make laws as to naturalization, bankruptcies, and exercise exclusive legislation' in the District of Columbia and Territories of the country. If these are sought by treaty to be regulated by the President and Senate, it can only be done when the Congress, vested with these great powers, shall give it unconditional consent."

Mr. Cyrus King, who at one time was a Member of the House of Representatives, said, in the course of a debate in that body on the subject of treaty-making (par. 301):

The result of my investigation on this subject is that whenever a treaty or convention does, by any of its provisions, encroach upon any of the enumerated powers vested by the Constitution in the Congress of the United States, or any of the laws by them enacted in execution of those powers, such treaty or convention, after being ratified, must be laid before Congress, and such provisions cannot be carried into effect without an act of Congress. For instance, whenever a treaty affected duties on imposts, enlarging or diminishing them, as the present one did to diminish; whenever a treaty went to regulate commerce with foreign nations, as that expressly did with one, as the power to lay duties and the power to regulate commerce are expressly given to Congress, such provisions of such treaty must receive the sanction of Congress before they can be considered as obligatory and as part of the municipal law of this country. And this construction is strengthened by a part of the general power given to Congress, following the enumerated powers, "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any department or office thereof."

President Jackson in 1834 had under consideration the French Treaty of 1831. In a message to Congress he said, in effect, that a treaty involving commercial regulations had to be submitted to Congress in order to be carried into full execution.

I have quoted from these authors at some length in order that we may have clearly in mind the extent of the meaning of the word "treaty," and to show, as I think those authorities show, that any agreement with a foreign nation entered into by the Government of the United States, whether in relation to tariff duties or in relation to commercial transactions of any kind, is in all essentials a treaty within the meaning of international law, and is subject to ratification by the Senate.

Of course, there is a limitation of the powers of the Chief Executive in tariff laws heretofore enacted, including that enacted in 1930; and, as the authorities point out, the power conferred upon the Chief Executive in those laws is purely ministerial. In other words, the law fixes a limitation upon the power which the Executive may exercise. The law goes on to say, "If, under such and such conditions, the government of the country of A or of B or of C extends some liberal treatment to the nationals of our country, then to the same extent, but within the limits of the rates of duty fixed in the law, the Executive is hereby directed or empowered to

grant to those nationals the same treatment that is granted to our nationals."

The bill now before us, however, is nothing of that kind. There is no limitation upon the action which may be taken by the Executive in pursuance of its provisions. We find on page 2, paragraph (1), that the President under this bill would be authorized—

To enter into foreign-trade agreements with foreign governments or instrumentalities thereof.

What is the meaning of that? There is no limitation there. He is not bound by any tariff duties that may be fixed by law. He may change the existing law as it affects the nationals of other countries. He may grant special privileges to tradesmen in other countries exporting their goods to the United States. It seems to me that is about as broad as the Congress could make a piece of legislation.

There is no limitation in that provision. It can be read separately, because it is not contingent upon any other part of the bill. It does provide that if the President finds as a fact that existing duties or restrictions imposed upon our country are disadvantageous, and so forth, then what can he do? He can enter into foreign-trade agreements with foreign governments or instrumentalities thereof. Does that mean that he is limited in the scope of the agreements into which he may enter? There is no limitation fixed in the bill. It seems to me that if there ever was a provision in law authorizing the Chief Executive to enter into treaties with foreign nations without getting the sanction of the Senate of the United States, this is a provision of that kind.

Mr. President, much has been made of agreements heretofore entered into in pursuance of tariff legislation enacted through the years. The Senator from Arkansas [Mr. ROBINSON] in his argument this morning, referred to a very considerable number of instances to be found in the statement of the Assistant Secretary of State, Mr. Sayre, when he appeared before the Committee on Ways and Means of the House of Representatives last March. But I wish to point out that in every one of the instances to which Mr. Sayre referred there was a limitation upon the extent to which the Chief Executive might go in entering into these so-called "Executive agreements."

I wish to refer to some of them, as I do not want to take up the time of the Senate in calling attention to all. They are available to Senators. They are printed in the report of the hearings.

Mr. Sayre referred to an incident where, in the case of a treaty with Great Britain, the President was to give effect to it after receiving satisfactory evidence of certain facts. He goes on to say in his memorandum:

By an act of Congress approved August 5, 1854, to carry into effect the treaty aforesaid, the President was given power after he "shall receive satisfactory evidence that the Imperial Parliament of Great Britain", etc., had passed laws on their part, to give full effect to the provisions of the treaty.

That did not confer upon the Chief Executive the power to make a treaty with Great Britain. It merely fixed the limitations within which the President might act upon the happening of a given contingency. The measure of the power is fixed by the legislative authority in that instance. In other words, when the President should receive satisfactory evidence that certain things had taken place, then and in that event he should declare the treaty to be in effect a purely ministerial duty, as I view it, carrying out the will of Congress.

Congress had expressed itself upon the question. It had consented to a treaty with Great Britain, but it said that before the treaty should become effective it must be shown to the satisfaction of the Chief Executive that certain treatment was accorded to the people of the United States, and thereupon, when that fact was established, the President might declare the treaty to be in full force and effect.

Again, Mr. Sayre referred to the McKinley Act of 1890:

McKinley Rates Applicable When President Ascertained That There Was a Failure Reciprocally To Grant Free Introduction of Articles.

That is the heading. He says:

The Tariff Act of 1890, "to reduce the revenue and equalize duties on imports", made provision for the imposition of penalty duties upon imports from countries discriminating in their tariff treatment against goods from the United States. This was apparently the first act under which the President entered upon a comprehensive program of tariff bargaining by Executive agreements.

Section 3 of this act provided that, with a view to securing reciprocal trade with countries producing certain specified articles (sugar, molasses, coffee, tea, and hides), the President, when he was satisfied that the government of any country producing and exporting these articles, or any of them, imposed duties or other exactions upon the agricultural or other products of the United States which, in view of the free introduction of such articles into the United States he might regard as reciprocally unequal and unreasonable, should have the power to suspend by proclamation the provisions of the act relating to the free introduction of the above-mentioned articles.

No power was conferred by Congress upon the Chief Executive to enter into a trade agreement with any foreign nation in that bill. It provided that when the President had ascertained the existence of a given fact, then he should apply a certain formula set forth clearly and definitely and distinctly in the enactment of Congress.

I call attention to the difference between the provision in the McKinley Act, to which I have just referred, and the provisions contained in paragraph 1, on page 2, of the bill under discussion. There is no limitation in the bill now before us. There is no yardstick with which to measure the extent to which the President may go in formulating so-called "Executive agreements." It provides, the President is authorized—

To enter into foreign trade agreements with foreign governments or instrumentalities thereof.

That is unlike the provision in the McKinley Act, which sets forth clearly what might be done under a given state of circumstances; namely, Congress says in effect, "We shall collect duties of so much on certain articles, but because of the imposition of higher duties upon those articles exported from this country, the same rate of duty shall apply to articles coming from those countries to us until such time as equal treatment shall be accorded to our people."

Mr. HATFIELD. Mr. President, does the Senator take the position that when once a treaty has been entered into for a period of 3 years it can be terminated within that period of 3 years? There seems to be some difference of opinion in the Senate with respect to that question. The able Senator from Mississippi, in his opening statement, took the position that it could be terminated within the period of 3 years provided 6 months' notice was given.

Mr. HEBERT. Mr. President, I do not so read the provision in the bill in relation to termination of treaties. The Senator has reference, I assume, to paragraph (b) on page 5 of the bill.

Mr. HATFIELD. That is true, Mr. President.

Mr. HEBERT. It reads:

Every foreign-trade agreement concluded pursuant to this act shall be subject to termination, upon due notice to the foreign government concerned, at the end of not more than 3 years from the date on which the agreement comes into force—

Up to that point it is my opinion that an agreement of this nature could not be terminated within the period of 3 years, if it were made for that length of time, and then only upon notice could it be terminated. I quote the remainder of the paragraph:

and, if not then terminated—

That is, if not terminated at the end of 3 years—

shall be subject to termination thereafter upon not more than 6 months' notice.

Mr. HATFIELD. I think the Senator will agree with me that the able Senator from Mississippi took the position that a 6 months' notice would terminate the treaty agreement within the 3-year period.

Mr. KING. Mr. President, will the Senator yield?

Mr. HEBERT. I yield.

Mr. KING. It seems to me the construction just contended for is not the accurate one no matter by whom contended. As I read the provision just referred to, it would seem that the agreement might be terminated at any time, according to its terms, within 3 years. If at the end of the 3 years it were to continue longer, then the 6 months' notice would be required. But it is subject to termination by the terms of the agreement at any time, within a week or a month.

Mr. HATFIELD. Within the 3 years.

Mr. KING. Yes.

Mr. HEBERT. If the treaty provided by its terms that it should continue for 1 year, of course, it would terminate in that time. But if there were no provision for its termination, then it would continue for 3 years from its date, as I read the wording of the statute.

Mr. KING. Probably that is correct. But it depends upon the terms of the treaty itself.

Mr. HEBERT. Of course that would be controlling, I believe.

I come now to a reference to the 1890 Tariff Act in the memorandum submitted by the Assistant Secretary of State, Mr. Sayre.

Mr. FESS. Mr. President, will the Senator yield?

Mr. HEBERT. I yield.

Mr. FESS. Is the Senator about to deal with the present law touching the same subject?

Mr. HEBERT. I am.

Mr. FESS. I thought there was a retaliatory feature written into the law, which evidently is being misused as a justification for what is now proposed. I thought the Senator would deal with that subject, because it has been referred to heretofore. We have already authorized retaliatory action.

Mr. HEBERT. Mr. President, I do not know that I understand very clearly what the Senator has in mind. I have not considered the retaliatory feature of the 1930 Tariff Act, if there is such a provision in it.

Mr. FESS. I am referring to section 338, wherein the act says:

> The President, when he finds that the public interest will be served thereby, shall by proclamation specify and declare new or additional duties as hereinafter provided upon articles wholly or in part the growth or product of, or imported in a vessel of, any foreign country whenever he shall find as a fact that such country—

Is doing certain things; but that would be in pursuance of what is thereinafter written.

Mr. HEBERT. Mr. President, that is in line with what I have tried to bring to the attention of the Senate in my discussion of the agreements that have been entered into in pursuance of all these laws, and references made to them by the Assistant Secretary of State, that in no instance has any broad power or treaty-making power been conferred upon or been intended to be conferred upon the Chief Executive. The legislative branch of the Government in every instance has placed limitations upon what the Chief Executive may do. It has said to him, in effect, "When you find certain conditions to exist, here is your line of conduct. You may go to this extent, but you may not go beyond it." All sorts of limitations have been placed upon the Chief Executive in what he may do in making these agreements, but in no case has unlimited power been conferred upon the Chief Executive in making the agreements.

Mr. FESS. Precisely. The law says, "You may go to this extent, but only in pursuance of the authority given and the limitations prescribed."

Mr. HEBERT. The Congress simply says, "The authority to legislate is ours, and not that of the Chief Executive. We will fix the rules of conduct, and you must abide by them, because it is your duty to execute them."

Mr. Sayre goes on to say, in relation to the reciprocity agreement for the free introduction of articles named in the 1890 act:

> Following the passage of the act, Secretary Blaine began the negotiation of a series of agreements, and between January 31, 1891, and May 26, 1892, 10 reciprocity agreements were concluded, all but 2 of which were with countries of the Western Hemisphere. In each of the agreements the United States undertook to admit free of duty, when coming from the other country, the five articles—sugar, molasses, coffee, tea, and hides—enumerated in the penalizing provision of the act. In the majority of these agreements the other contracting parties undertook to admit free or at substantially reduced tariff rates the bulk of its imports from the United States. The penalty duties were imposed on Colombia, Venezuela, and Haiti after they had failed to respond to requests of this Government to negotiate agreements.

Again, there were penalties fixed by the act of 1890; and in pursuance of the authority conferred by Congress on the Chief Executive, 10 reciprocity agreements were entered into. They were mere understandings fixed upon the conditions set out in the tariff bill itself. In other words, again in this instance Congress said, "We will fix certain penalties upon the importations from certain countries; but when the Chief Executive finds that those countries are not imposing obligations upon us in the case of our exportations to them, he may enter into agreements absolving them from the penalties fixed in the law." It is always "fixed in the law."

Then Mr. Sayre refers to the case of Field against Clark, which has been discussed here at very considerable length, and says:

> The constitutionality of this provision of the tariff act was attacked in the case of *Field* v. *Clark* (1892) (143 U.S. 649, 681) on the ground that, in authorizing the President to suspend the free importation of certain products, the Congress had delegated to him both legislative and treaty-making powers. The claimants, therefore, sought to obtain the refund of certain duties claimed to have been illegally exacted on imported merchandise under this act.

Of course the Supreme Court held that the plaintiff in that case was not entitled to recover. No treaty-making power was intended to be conferred upon the Chief Executive by the act of 1890, and none was conferred. The Chief Executive merely carried out the mandate of the legislative branch of the Government in fixing certain penalties upon importations to this country under conditions fixed in the law itself.

As the Senator from Maine [Mr. WHITE] very aptly remarked, the Chief Executive in this case merely acts as a legislative agent to carry out the will of Congress in execution of the law enacted by Congress. He has no power to go beyond the limit fixed in the legislation enacted by the Congress.

The court very aptly said in *Field* v. *Clark* (143 U.S. 649):

> That Congress cannot delegate legislative power to the President is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution.

Of course, that is the utterance of a truism under our form of government. It could not be otherwise. Yet as I read the provisions of the bill now under consideration, I am forced to the conclusion that if we shall pass the bill we will confer upon the Chief Executive the power to enter into treaty agreements with foreign nations. Paragraph 1, page 2 of the bill, provides:

> To enter into foreign-trade agreements with foreign governments or instrumentalities thereof.

Under what conditions? None are fixed. Subject to what limitations? There are no limitations stated. How much shall we concede to foreign nations of those provisions of our laws now in force in the making of such agreements? No yardstick is furnished by which it can be measured. How far may the President go in making trade agreements and binding our country to them? No one can tell. No one has attempted to tell the Senate up to the present time to what extent the President could go under the provisions of the bill. If he can go beyond the provisions of existing law, in other words, if Congress is attempting to confer upon the Chief Executive the power to enter into treaty agreements with foreign nations, then manifestly the bill is unconstitutional, because it violates the provisions regarding the making of treaties. It must be conceded on all hands that the Senate may not delegate the treaty-making power to the Chief Executive any more than it can delegate any other of its legislative powers to the Chief Executive.

Mr. FESS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Rhode Island yield to the Senator from Ohio?

Mr. HEBERT. I yield.

Mr. FESS. On page 2 of the bill, where the authority is given to the President, this language is used:

The President, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States—

And so forth; and then follows what he may do. Is that language broad enough that within the limits of 50 percent the President could eliminate the duties upon all the goods which are now upon the dutiable list?

Mr. HEBERT. Not only could he do that, Mr. President, but he could also enter into foreign-trade agreements of any kind within the limits of 50 percent of such duties and, in addition to that, any agreements that would remove the burdensome restrictions upon the foreign trade of the United States. I confess I do not know what is intended by the language. It is so broad that almost anything could be done under it. Bear in mind that paragraph 1 does not apply alone to a reduction of 50 percent in duties, but it relates back to the premise from which it proceeds, namely—

The President, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening or restricting.

That goes for our entire trade with other countries. It seems to me that it is so broad that it amounts to a treaty-making power, which we may not delegate to the Chief Executive.

Mr. FESS. Assuming we did have constitutional authority to do it—which I do not assume—but for argument's sake assuming there is such authority, suppose the person in charge of carrying out the provisions of the bill should be one who does not believe at all in the principle of protection and wants to limit all duties to revenue purposes, could he not entirely eliminate the protective system on all the articles on the dutiable list, if he thought they were interfering with our foreign trade?

Mr. HEBERT. It seems to me he would have ample power to do so. He could go farther and remove all restrictions, all embargoes, all countervailing duties, all those provisions now in existing tariff laws set up for the protection of American industry, American commerce, and American agriculture. There is no limit to which he might not go under this provision, as I read it.

Mr. FESS. I think that is true, and I do not believe there is a Senator on either side of the aisle who would dispute that that power is written into the bill.

Mr. HEBERT. It seems to me that it is so plain that it cannot be gainsaid.

Mr. President, I should like, if time permitted and if it could be done without taxing the patience of Senators, to discuss all the instances to which Mr. Sayre referred in his memorandum submitted to the Ways and Means Committee on the occasion of his appearance before that body.

He refers to the Dingley Act of 1897 and the fact that in pursuance of the provisions of that law certain trade agreements were entered into, but again with all the limitations contained in it.

Again, he refers to the Payne-Aldrich Act of 1909. That act provided maximum and minimum duties. I think it was one of the few instances where Congress provided for both maximum and minimum duties.

Under the provisions of the act the Chief Executive was authorized to apply either the maximum or the minimum duties upon certain contingencies very definitely set out in the act. Again, that is not the treaty-making power. All the President was authorized to do was to ascertain the facts and, once the facts had been ascertained, to proceed to apply the provisions of law as enacted by Congress—a purely ministerial act. The only requirement on the President was to ascertain the existence of certain facts; and once the President had ascertained the existence of those facts, he was to apply the provisions of the law as previously set out and clearly defined by Congress.

Mr. FESS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Rhode Island yield to the Senator from Ohio?

Mr. HEBERT. I yield.

Mr. FESS. The Senator is making a very impressive argument on the legal and constitutional phase of the matter. I am sure he does not overlook the fact, however, that all these treaties and all these agreements, without a single exception, after trial were repealed. In other words, even if we should assume that the policy originally tried out, with its limitations, was within the Constitution, as I fear this proposal is not, yet all the reciprocal arrangements were discontinued. Every treaty on the reciprocal plan that we have had with any country has been tried, found wanting, and repealed.

Mr. HEBERT. I come now to the observations of Mr. Sayre in relation to the Fordney-McCumber Act:

Section 315 of the 1922 Tariff Act, which, together with other sections, contains the so-called "flexible provisions" of the act—

I am not certain that that was the first tariff act which contained a flexible provision, but I think it was—

provided for the lowering or raising of the duty by proclamations of the President—

By proclamations of the President—

to equalize the cost of production of articles in the United States and the like or similar articles of competing foreign countries.

What did Congress do in relation to authorizing the President, by proclamation, to equalize the cost of production here and abroad?

These proclamations were to be issued after investigation by the Tariff Commission to ascertain the facts necessary to enable the President to determine whether increases or decreases in the rates of duty should be made. The section provided that the total increase or decrease should not exceed 50 percent of the rates specified in title I of the act.

Section 316 gave the President power, whenever the existence of methods of unfair competition and unfair acts in the importation of articles into the United States or in their sale therein should tend to destroy or substantially injure an industry, or to prevent the establishment of such an industry, or to restrain and monopolize trade and commerce in the United States, had been established to his satisfaction, to cause additional import duties to be imposed, or, in extreme cases, to cause such articles to be excluded from the United States.

There was no delegation of treaty-making power in that act. Congress merely said to the President, in effect, "Here is a pattern which you are to follow. Upon the happening of certain contingencies you are to impose this duty and that duty, and this obligation and that obligation, and this restriction and that restriction upon importations from abroad. You cannot go beyond those limitations which we have fixed in the law, but you are directed by proclamation to put those rates into effect." Again, that clearly is not the treaty-making power.

Mr. FESS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Rhode Island yield to the Senator from Ohio?

Mr. HEBERT. I yield to the Senator.

Mr. FESS. I desire to bring to the Senator's attention a suggestion which was made to me by the Senator from Maine [Mr. WHITE], that even in that case there was not one kind of agreement with one country and a different kind of agreement with another country, but the agreements were uniform with all countries. Not only that, but whatever flexibility was to be exercised had to be exercised upon a rule of action laid down by Congress, making up the difference between the cost of production in another country and in ours.

Mr. HEBERT. That was absolutely so, and necessarily so, because of the universality of the legislation and of its effects. Congress did not single out any one country to which the President might apply the provisions of the law. It said, "In every instance where different treatment is accorded by a country to our people than we accord to the people of that country, such provisions shall be applied to them."

Mr. HARRISON. Mr. President, will the Senator yield? I hope what I am about to say will not be taken out of his time.

Mr. HEBERT. I yield.

Mr. HARRISON. I desire to see if we cannot enter into a unanimous-consent agreement which I am about to propose. If there seems to be no objection to the proposal I shall then necessarily have to call for a quorum under the rule.

I send to the desk a proposed unanimous-consent agreement which I ask to have read.

The PRESIDING OFFICER. The proposed unanimous-consent agreement will be read.

The Chief Clerk read as follows:

I ask unanimous consent that when the Senate concludes its labors today it take a recess until 10 o'clock a.m. tomorrow; that not later than 12 o'clock meridian on tomorrow the Senate proceed to vote without further debate upon the pending amendment or any other agricultural amendment that may be proposed, and that thereafter no Senator shall speak more than once nor longer than 5 minutes upon the pending bill or any amendment that may be pending or that may be offered thereto; and that on tomorrow, not later than 4 o'clock p.m., the Senate proceed to vote without further debate upon any amendment that may be pending or any amendment or motion that may be offered and upon the passage of the bill itself.

The PRESIDING OFFICER. Is there objection to the proposed unanimous-consent agreement?

Mr. McNARY. Mr. President, I desire to have the privilege of expressing my view before a quorum is called.

For obvious reasons I cannot consent to have the vote occur tomorrow or that we shall hold a session tomorrow. We have been in session from early morning until late in the afternoon during the week, and there is a great accumulation of work in the offices of the various Senators. I shall consent to the proposal with the modification that at the conclusion of the remarks of the Senator from Rhode Island we shall recess until 10 o'clock a.m. Monday; that at 12 o'clock we shall proceed to vote on the pending amendment offered by the Senator from California [Mr. JOHNSON]; that thereafter debate on amendments shall be limited to 5 minutes; and that not later than 5 o'clock on Monday we shall vote upon the pending amendments and the bill without further debate.

On that proposal I think I can speak for those on this side of the aisle.

Mr. WHITE. Mr. President, may I ask whether the limitation of debate to 5 minutes on Monday applies to amendments of which notice has been given and which are now on the table?

Mr. McNARY. Mr. President, it would apply to all amendments pending, or which may be offered in the meantime, of course.

Mr. WHITE. Mr. President, I had given notice of a proposed amendment to the bill, and I had expected to discuss it for a very reasonable length of time. I have no such consuming desire, however, to talk to the Senate as to lead me to interpose any objection to the proposal. I do feel that the 5-minute limitation is a little severe, though personally I shall not interpose objection.

Mr. JOHNSON. Mr. President, may I suggest that as to at least one amendment, in various forms presented by different Members of the Senate, relating to the return to the Congress and the approval by the Congress of the particular agreements which might be made, there should be a 10-minute limitation. I would not ask any more than that, but a 5-minute limitation on an amendment of that character, which to me is quite as important as the amendment we are now considering, if not more important, is rather severe.

Mr. ROBINSON of Arkansas. Mr. President, would the Senator be willing to fix a time for a vote on the bill at 5 o'clock?

Mr. JOHNSON. Yes. My viewpoint is this: If we cannot get through with the amendments by 5 o'clock, that is just too bad, and those of us who have amendments which are not presented will have to take the consequences.

Mr. HARRISON. Mr. President, if I may ask the Senator from Oregon a question, of course the way the unanimous-consent request is submitted, it carries out the agreement already entered into, that when we shall have voted on the so-called "Johnson amendment", we will immediately begin to vote on the other agricultural amendments. The way the Senator stated the proposal we would not do that; Senators could have 5 minutes on the other amendments. Was that the intention of the Senator from Oregon?

Mr. McNARY. I thought I made myself quite definite. My intention, at least, was to suggest that at the conclusion of the debate and the vote upon the Johnson amendment the limitation of 5 minutes should apply to any other amendment offered, and that at 5 o'clock we should proceed to vote upon all the amendments and on the bill to its final passage.

Mr. HARRISON. Mr. President, I had very much hoped we could conclude this matter tomorrow, and that is why I presented the request for unanimous consent, but the proposal offered by the Senator from Oregon would assure us a vote beginning at 5 o'clock on Monday, and I am willing to modify my request to that extent.

Mr. HEBERT. Mr. President, I have an amendment lying on the table which I very much desire to take up at the proper time. It is important, I consider, to the industries of my State, and I question whether I can say very much about it in 5 minutes. Yet, under the proposed agreement I would be limited to that length of time to give the Senate the reasons why I think the amendment should be agreed to.

Mr. HARRISON. I thought the Senator had already been discussing his amendment.

Mr. HEBERT. I have not, Mr. President; I have been discussing the amendment of the Senator from California.

Mr. JOHNSON. Could the Senator discuss the amendment in 10 minutes?

Mr. HEBERT. I will agree to do it in 10 minutes.

Mr. McNARY. Mr. President, since it would not extend the length of time for debate, I would be willing to modify the request so that the limitation on debate would be 10 minutes instead of 5.

Mr. HARRISON. I am willing to modify my proposal so as to make the limitation not more than 10 minutes.

Mr. ROBINSON of Arkansas. Provided the vote comes at 5 o'clock.

Mr. HARRISON. Yes; I do not modify my request in that regard. It would mean a Senator would have 10 minutes on each amendment.

Mr. McNARY. I adhere to the proposition originally submitted, that the vote shall commence at 5 o'clock Monday afternoon.

Mr. BORAH. Mr. President, is it the understanding now that if the unanimous-consent proposal shall go into effect we will meet at 10 o'clock on Monday and that the voting will not begin until 12?

Mr. HARRISON. The voting on the so-called "Johnson amendment" will begin at 12 o'clock.

Mr. JOHNSON. And thereafter we will have 10 minutes on each amendment, but with the distinct understanding that at 5 o'clock we shall begin voting and close the transaction.

Mr. HARRISON. I have modified my request accordingly. Now I ask that the clerk read the modified request.

The PRESIDING OFFICER. The clerk will report the unanimous-consent agreement.

Mr. HARRISON. Mr. President, while the clerk is getting the request in shape, I suggest the absence of a quorum.

Mr. HEBERT. Mr. President, I was about to ask the Senator a question. It is my understanding that in the proposal made by the Senator that we proceed to vote at 5 o'clock he does not exclude the offering of amendments after that time, though they may not be debated?

Mr. HARRISON. All amendments ought to be offered, and if they are pending at 5 o'clock they will be voted on.

Mr. HEBERT. That is all right.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Black	Capper	Couzens
Ashurst	Bone	Caraway	Davis
Austin	Borah	Carey	Dickinson
Bachman	Brown	Clark	Dieterich
Bailey	Bulkley	Connally	Dill
Bankhead	Bulow	Coolidge	Duffy
Barbour	Byrd	Copeland	Erickson
Barkley	Byrnes	Costigan	Fess

Fletcher	Kean	Norbeck	Steiwer
Frazier	Keyes	Norris	Stephens
George	King	Nye	Thomas, Okla.
Gibson	La Follette	O'Mahoney	Thomas, Utah
Glass	Lewis	Overton	Thompson
Goldsborough	Logan	Patterson	Townsend
Gore	Lonergan	Pittman	Tydings
Hale	Long	Pope	Vandenberg
Harrison	McCarran	Reynolds	Van Nuys
Hastings	McGill	Robinson, Ark.	Wagner
Hatch	McKellar	Russell	Walcott
Hatfield	McNary	Schall	Walsh
Hayden	Metcalf	Sheppard	Wheeler
Hebert	Murphy	Shipstead	White
Johnson	Neely	Smith	

The VICE PRESIDENT. Ninety-one Senators have answered to their names. There is a quorum present.

Mr. HARRISON. Mr. President, the request for unanimous consent has now been reduced to writing, and I send it to the desk and ask to have it read.

The VICE PRESIDENT. The proposed agreement will be read.

The Chief Clerk read as follows:

Ordered, by unanimous consent, that when the Senate concludes its labors today it take a recess until 10 o'clock a.m. Monday and that not later than 12 o'clock m. on Monday next the Senate proceed to vote without further debate upon the pending amendment or any other agricultural amendment that may be proposed, and that thereafter no Senator shall speak more than once nor longer than 10 minutes upon the pending bill or any amendment that may be pending or that may be offered thereto, and that on Monday at not later than 5 o'clock p.m. the Senate proceed to vote, without further debate, upon any amendment that may be pending or any amendment or motion that may be offered and upon the passage of the bill itself.

The VICE PRESIDENT. Is there objection to the request for unanimous consent?

Mr. DILL. Mr. President, does that mean that a Senator may have a total of 20 minutes?

Mr. HARRISON. It means 10 minutes on any amendment, after 12 o'clock.

Mr. DILL. And 10 minutes on the bill.

Mr. GORE. Mr. President, I should like to inquire if we could fix the hour for limiting the debate at 1 o'clock. I myself may make a few remarks. I do not desire to exclude anyone else.

Mr. HARRISON. I think that between 10 and 12 o'clock the Senator should be able to find time to make his remarks.

The VICE PRESIDENT. Is there objection to the unanimous-consent request?

Mr. GORE. I shall seek recognition when we meet on Monday. I give notice to that effect.

The VICE PRESIDENT. The Chair will hope to recognize the Senator from Oklahoma.

Is there objection to the request for unanimous consent? The Chair hears none, and it is so ordered.

Mr. HEBERT. Mr. President, I had intended to refer to a very considerable number of instances adverted to by the Assistant Secretary of State in the statement which he filed with the Committee on Ways and Means, but I shall not detain the Senate unduly at this late hour; so I pass to some observations on the provisions of section 336 of the Tariff Act of 1930. I shall not take time to read that in its entirety, Mr. President, though I shall ask to have the entire section appear in the RECORD at this point in my remarks.

The VICE PRESIDENT. Without objection, it is so ordered.

The section referred to is as follows:

SEC. 336. Equalization of costs of production: (a) Change of classification or duties: In order to put into force and effect the policy of Congress by this act intended, the Commission (1) upon request of the President, or (2) upon resolution of either or both Houses of Congress, or (3) upon its own motion, or (4) when in the judgment of the Commission there is good and sufficient reason therefor, upon application of any interested party, shall investigate the differences in the costs of production of any domestic article and of any like or similar foreign article. In the course of the investigation the Commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. The Commission is authorized to adopt such reasonable procedure and rules and regulations as it deems necessary to execute its functions under this section. The Commission shall report to the President the results of the investigation and its findings with respect to such differences in costs of production. If the Commission finds it shown by the investigation that the duties expressly fixed by statute do not equalize the differences in the costs of production of the domestic article and the like or similar foreign article when produced in the principal competing country, the Commission shall specify in its report such increases or decreases in rates of duty expressly fixed by statute (including any necessary change in classification) as it finds shown by the investigation to be necessary to equalize such differences. In no case shall the total increase or decrease of such rates of duty exceed 50 percent of the rates expressly fixed by statute.

(b) Change to American selling price: If the Commission finds upon any such investigation that such differences cannot be equalized by proceeding as hereinbefore provided, it shall so state in its report to the President and shall specify therein such ad valorem rates of duty based upon the American selling price (as defined in section 402 (g)) of the domestic article, as it finds shown by the investigation to be necessary to equalize such differences. In no case shall the total decrease of such rates of duty exceed 50 percent of the rates expressly fixed by statute, and no such rate shall be increased.

(c) Proclamation by the President: The President shall by proclamation approve the rates of duty and changes in classification and in basis of value specified in any report of the Commission under this section, if in his judgment such rates of duty and changes are shown by such investigation of the Commission to be necessary to equalize such differences in costs of production.

(d) Effective date of rates and changes: Commencing 30 days after the date of any Presidential proclamation of approval, the increased or decreased rates of duty and changes in classification or in basis of value specified in the report of the Commission shall take effect.

(e) Ascertainment of differences in costs of production: In ascertaining under this section the differences in cost of production, the Commission shall take into consideration, insofar as it finds it practicable:

(1) In the case of a domestic article: (A) The cost of production as hereinafter in this section defined; (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; and (C) other relevant factors that constitute an advantage or disadvantage in competition.

(2) In the case of a foreign article: (A) The cost of production as hereinafter in this section defined, or, if the Commission finds that such cost is not readily ascertainable, the Commission may accept as evidence thereof, or as supplemental thereto, the weighted average of the invoice prices or values for a representative period and/or the average wholesale selling price for a representative period (which price shall be that at which the article is freely offered for sale to all purchasers in the principal market or markets of the principal competing country or countries in the ordinary course of trade and in the usual wholesale quantities in such market or markets); (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; (C) other relevant factors that constitute an advantage or disadvantage in competition, including advantages granted to the foreign producers by a government, person, partnership, corporation, or association in a foreign country.

(f) Modification of changes in duty: Any increased or decreased rate of duty or change in classification or in basis of value which has taken effect as above provided may be modified or terminated in the same manner and subject to the same conditions and limitations (including time of taking effect) as is provided in this section in the case of original increases, decreases, or changes.

(g) Prohibition against transfers from the free list to the dutiable list or from the dutiable list to the free list: Nothing in this section shall be construed to authorize a transfer of an article from the dutiable list to the free list or from the free list to the dutiable list, nor a change in form of duty. Whenever it is provided in any paragraph of title I of this act, or in any amendatory act, that the duty or duties shall not exceed a specified ad valorem rate upon the articles provided for in such paragraph, no rate determined under the provisions of this section upon such articles shall exceed the maximum ad valorem rate so specified.

(h) Definitions: For the purpose of this section—

(1) The term "domestic article" means an article wholly or in part the growth or product of the United States; and the term "foreign article" means an article wholly or in part the growth or product of a foreign country.

(2) The term "United States" includes the several States and Territories and the District of Columbia.

(3) The term "foreign country" means any empire, country, dominion, colony, or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions).

(4) The term "cost of production", when applied with respect to either a domestic article or a foreign article, includes for a period which is representative of conditions in production of the article: (A) The price or cost of materials, labor costs, and other direct charges incurred in the production of the article and in the processes or methods employed in its production; (B) the usual general expenses, including charges for depreciation or depletion which are representative of the equipment and property employed in the production of the article and charges for rent or interest which are representative of the cost of obtaining capital or instruments of production; and (C) the cost of containers and

coverings of whatever nature, and other costs, charges, and expenses incident to placing the article in condition packed ready for delivery.

(i) Rules and regulations of President: The President is authorized to make all needful rules and regulations for carrying out his functions under the provisions of this section.

(j) Rules and regulations of Secretary of Treasury: The Secretary of the Treasury is authorized to make such rules and regulations as he may deem necessary for the entry and declaration of foreign articles of the class or kind of articles with respect to which a change in basis of value has been made under the provisions of subdivision (b) of this section, and for the form of invoice required at time of entry.

(k) Investigations prior to enactment of act: All uncompleted investigations instituted prior to the approval of this act under the provisions of section 315 of the Tariff Act of 1922, including investigations in which the President has not proclaimed changes in classification or in basis of value or increases or decreases in rates of duty, shall be dismissed without prejudice; but the information and evidence secured by the Commission in any such investigation may be given due consideration in any investigation instituted under the provisions of this section.

Mr. HEBERT. Section 336 is entitled "Equalization of Costs of Production." It provides:

In order to put into force and effect the policy of Congress by this act intended, the Commission—

That is, the Tariff Commission—

(1) Upon request of the President, or (2) upon resolution of either or both Houses of Congress, or (3) upon its own motion, or (4) when in the judgment of the Commission there is good and sufficient reason therefor, upon application of any interested party, shall investigate the differences in the cost of production of any domestic article and of any like or similar foreign article.

They have to report to the President, and the President has the authority conferred by the provisions of this section to increase or decrease to the extent of 50 percent the tariff provided in this act.

The provisions of section 336, as the Senators will observe if they will take the time to study them, are sufficiently broad to encompass all that the Chief Executive might wish to do in aid of our foreign commerce. They were intentionally made so by Congress at the time it enacted this law.

My only conclusion, as I have read section 336 and compared it with the bill now under consideration, is that the Chief Executive must be seeking legislative powers. If that were not so, he could find all necessary power to carry into effect these trade agreements under the provisions of section 336. He has full power to modify existing tariffs to the extent of 50 percent; so why the need of this legislation, unless he wants legislative power?

If, as I believe, the pending bill attempts to confer legislative power upon the Chief Executive, I return to my original proposal that the bill is without the Constitution, because Congress may not delegate to the Chief Executive the treaty-making power, or the power to legislate. I cannot reach any other conclusion, Mr. President, because of the breadth of the provisions of section 336 of the Tariff Act of 1930, under which we have operated now for 3 years. We have made certain changes when the need appears to have existed. There is no constraint upon the Chief Executive to make changes within the limit of 50 percent. It seems to me that unless the Chief Executive were seeking to have conferred upon him some of the legislative powers existing in the Congress, there would be no need for this legislation.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 1932. An act for the relief of Alfred Hohenlohe, Alexander Hohenlohe, Konrad Hohenlohe, and Viktor Hohenlohe by removing cloud on title;

S. 2623. An act to amend the act entitled "An act to require the erection of fire escapes in certain buildings in the District of Columbia, and for other purposes", approved March 19, 1906, as amended;

S. 3290. An act to amend an act entitled "An act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes", approved July 15, 1932;

H.R. 2032. An act for the relief of Richard A. Chavis;

H.R. 3985. An act for the relief of Charles T. Moll; and

H.R. 9061. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1935, and for other purposes.

COOPERATION OF STATES IN PREVENTION OF CRIME

Mr. LOGAN. Mr. President, I ask for the present consideration of House bill 7353, granting the consent of Congress to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime, and for other purposes.

Mr. JOHNSON. Mr. President, what is the bill?

Mr. ROBINSON of Arkansas. It merely authorizes the States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of criminal law.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was ordered to a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the consent of Congress is hereby given to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts.

APPREHENSION OF CRIMINALS

Mr. LOGAN. I also ask the present consideration of House bill (9370), to authorize an appropriation of money to facilitate the apprehension of certain persons charged with crime.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments, on page 1, line 5, after the words "for the", to strike out "capture, dead or alive" and insert "capture"; in line 8, after the word "Columbia", to strike out "who is designated by the Attorney General of the United States as a public enemy"; on page 2, line 4, after the word "person", to strike out "who has been designated by the Attorney General of the United States as a public enemy"; and at the end of the bill to strike out "*Provided further*, That no person shall be designated as a public enemy within the purview of this act who has not theretofore been convicted in a court of competent jurisdiction of a felony involving violence", so as to make the bill read:

Be it enacted, etc., That there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, as a reward or rewards for the capture of anyone who is charged with violation of criminal laws of the United States or any State or of the District of Columbia, the sum of $25,000, to be apportioned and expended in the discretion of, and upon such conditions as may be imposed by, the Attorney General of the United States. That there is also hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, as a reward or rewards for information leading to the arrest of any such person, the sum of $25,000 to be apportioned and expended in the discretion of, and upon such conditions as may be imposed by, the Attorney General of the United States: *Provided*, That not more than $25,000 shall be expended for information or capture of any one person.

If the said persons or any of them shall be killed in resisting lawful arrests, the Attorney General may pay any part of the reward or rewards in his discretion to the person or persons whom he shall adjudge to be entitled thereto: *Provided*, That no part of the money authorized to be appropriated by this act shall be paid to any official or employee of the Department of Justice of the United States.

Mr. McNARY. Mr. President, was there any division in the committee regarding this bill?

Mr. LOGAN. Not at all. The committee amended the bill, which authorizes an appropriation of $25,000, and allows the Attorney General to determine a sum not exceeding $25,000 to be offered for the apprehension of a criminal. That is all it is.

The VICE PRESIDENT. The question is on agreeing to the amendments.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

INVESTIGATION OF SO-CALLED "BOOK TRUST"

Mr. CLARK. Mr. President, I ask unanimous consent for the present consideration of Senate Resolution 243.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution (S.Res. 243) appointing a special committee to investigate certain charges against text-book concerns in connection with the obtaining of contracts for the sale of school books, which had been reported from the Committee to Audit and Control the Contingent Expenses of the Senate with an amendment, on page 2, line 21, after the word "exceed", to strike out "$20,000" and to insert in lieu thereof "$10,000", so as to make the resolution read:

Whereas it has been openly published and charged for a period of years that the American Book Co. and other textbook concerns, commonly known as the "Book Trust", all dealing in textbooks and school books, throughout the country have been engaged in unlawful practices in obtaining of contracts for furnishing school books through State legislation, and from public officials in States, and that, in the obtention of these contracts to furnish textbooks, it is charged that they have used large sums of money for entertainment and use of various officials; and

Whereas it was published in the newspapers on Saturday, May 5, 1934, that, in a secret N.R.A. code hearing held in Washington, D.C., in April 1934, it was disclosed that $500,000 had been paid out by the textbook manufacturers for meals and other gratuities to public officials having to do with the purchase of school textbooks for the children and the youth of our country; and

Whereas these books are sold in interstate commerce: Now, therefore, be it

Resolved, That the President of the Senate be, and he is hereby, authorized and directed to appoint a committee of 5 Members of the Senate, not more than 3 Members of any one political party, which committee is authorized and directed, during the session of the Senate and during the recess of the Congress, to examine into such charges made concerning the book manufacturers selling books in interstate commerce and report its findings to the next Congress.

For the purpose of this resolution the committee, or any subcommittee thereof, is authorized to hold hearings, to sit and act at such times and places during the sessions and recesses of the Congress until the final report is submitted, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $10,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

Mr. McNARY. Mr. President, what is the purpose of the investigation?

Mr. CLARK. The school-book monopoly, as the Senator well knows, has for many years been the most vicious monopoly in the United States. It has been brought out in recent N.R.A. hearings that the various school-textbook companies have spent as much as $500,000 in gratuities to public officials. The purpose of the investigation is to break up the practice, if possible.

Mr. McNARY. Is this a special committee to be appointed by the Vice President?

Mr. CLARK. Yes.

Mr. McNARY. What is the emergency that calls up the resolution at this late hour, just as we are about to recess?

Mr. CLARK. There is no emergency. The resolution has been considered by the Committee on Education and Labor and again by the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. McNARY. I appreciate that, but we have a calendar. I have always thought it bad practice to take any order of business off the calendar unless there is some emergency.

Mr. CLARK. If the Senator desires to object he has undoubtedly the right to do so.

Mr. McNARY. I think I shall object under the circumstances.

The VICE PRESIDENT. Objection is heard.

AMENDMENT OF DISTRICT OF COLUMBIA CODE

The PRESIDING OFFICER (Mr. McGILL in the chair) laid before the Senate the amendment of the House of Representatives to the bill (S. 2714) to amend section 895 of the Code of Law of the District of Columbia, which was, on page 1, line 7, to strike out all after "necessary" down to and including "both", in line 10.

Mr. KING. Mr. President, this bill was sent to the House of Representatives by the Senate, and the House passed the bill with an unimportant amendment. The committee yesterday agreed to accept the amendment, and I now move that the Senate concur in the amendment of the House.

The motion was agreed to.

DISCONTINUANCE OF ALLEY DWELLINGS

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1780) to provide for the discontinuance of the use as dwellings of buildings situated in alleys in the District of Columbia, and for the replatting and development of squares containing inhabited alleys, in the interest of public health, comfort, morals, safety, and welfare, and for other purposes, which was, on pages 5 and 6, to strike out all of section 3 and to insert:

SEC. 3. (a) The President is hereby authorized, in his discretion, to make immediately available to the authority for its lawful uses and as needed, from the allocation made from the appropriation to carry out the purposes of the National Industrial Recovery Act, contained in the Fourth Deficiency Act, fiscal year 1933, now carried under the title "National Industrial Recovery, Federal Emergency Administration of Public Works, Housing, 1933-35", symbol 03/5666, not to exceed $500,000 of any amount thereof dedicated for low-cost housing and slum-clearance projects in the District of Columbia, to be set aside in the Treasury and be known as "Conversion of inhabited alleys fund" (hereinafter referred to as the "fund").

(b) The authority is hereby authorized and empowered to borrow such moneys from individuals or private corporations as may be secured by the property and assets acquired under the provisions of this act, and such moneys, together with all receipts from sales, leases, or other sources shall be deposited in the fund and shall be available for the purposes of this act.

(c) The fund shall remain available until June 30, 1935, and thereafter shall be available annually in such amount as may be specified in the annual appropriation acts.

(d) The total amount paid for property or properties acquired in any square shall not exceed 30 percent over and above the present assessed value of all the property or properties acquired in any square to carry out the provisions of this act.

Mr. KING. Mr. President, this bill passed the Senate several days ago, went to the House, and passed the House with an amendment, to which the Senate committee agreed yesterday, and as to which I was instructed to move concurrence by the Senate.

The PRESIDING OFFICER. Without objection, the amendment of the House of Representatives is concurred in.

ALFRED HOHENLOHE AND OTHERS

Mr. KING. I move to postpone indefinitely the consideration of House bill 6099, for the relief of Alfred Hohenlohe, Alexander Hohenlohe, Konrad Hohenlohe, and Viktor Hohenlohe by removing cloud on title.

The PRESIDING OFFICER. Without objection, the bill will be indefinitely postponed.

ERECTION OF FIRE ESCAPES IN THE DISTRICT OF COLUMBIA

Mr. KING. I move to postpone indefinitely the consideration of House bill 7208, to amend an act entitled "An act to require the erection of fire escapes in certain buildings in the District of Columbia, and for other purposes", approved March 19, 1906 (34 Stat. 70), as amended by the act of March 2, 1907 (34 Stat. 1247).

The PRESIDING OFFICER. Without objection, the bill will be indefinitely postponed.

BOARD OF INDETERMINATE SENTENCE AND PAROLE FOR THE DISTRICT

Mr. KING. I move to postpone indefinitely the consideration of House bill 8987, to amend an act entitled "An act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes", approved July 15, 1932.

The PRESIDING OFFICER. Without objection, the bill will be indefinitely postponed.

USE OF ALCOHOLIC BEVERAGES IN CANAL ZONE

Mr. GORE. From the Committee on Interoceanic Canals I report back favorably Senate bill 3696, authorizing the President to make rules and regulations in respect to alcoholic beverages in the Canal Zone, and for other purposes; and I submit a report (No. 1229) thereon.

This bill ought to pass before the adjournment of Congress and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Oklahoma?

There being no objection, the Senate proceeded to consider the bill, which was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the President is hereby authorized to make rules and regulations in respect to the sale and manufacture of alcoholic beverages within, and the importation thereof into and exportation thereof from, the Canal Zone, including the authority to prescribe licenses and fees for the sale and manufacture of such beverages.

SEC. 2. Any person violating any provision of such rules and regulations shall be punished by a fine of not more than $500 or imprisoned in jail for not more than 6 months, or by both, and in addition the license of such person may be revoked or suspended, as the President may by such rules and regulations prescribe.

SEC. 3. All laws, rules, regulations, and orders in force prior to the date this act takes effect, insofar as they apply to the sale, manufacture, possession, transportation, importation, and exportation of alcoholic beverages in the Canal Zone, are repealed.

SEC. 4. This act shall take effect on the thirtieth day after the date of its enactment.

EXECUTIVE SESSION

Mr. ROBINSON of Arkansas. Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

ENOCH E. LUNQUIST—WITHDRAWAL OF NOMINATION

The VICE PRESIDENT laid before the Senate a message from the President of the United States, which was read and ordered to lie on the table, as follows:

To the Senate of the United States:

I withdraw the nomination sent to the Senate on May 23, 1934, of Enoch E. Lunquist to be postmaster at Sheffield, in the State of Pennsylvania.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
Washington, D.C., June 1, 1934.

EXECUTIVE REPORTS OF COMMITTEES

Mr. SHEPPARD, from the Committee on Military Affairs, reported favorably the nominations of sundry officers in the Regular Army and of several general officers in the Officers' Reserve Corps of the Army.

Mr. HARRISON, from the Committee on Finance, reported favorably the nomination of Thomas C. Kasper, of Aberdeen, S.Dak., to be collector of internal revenue for the district of South Dakota, in place of Leslie Jensen.

Mr. LONERGAN, from the Committee on Finance, reported adversely the nomination of Edward G. Dolan, of Connecticut, to be collector of internal revenue for the district of Connecticut, in place of Robert O. Eaton, resigned.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

Mr. PITTMAN, from the Committee on Foreign Relations, reported favorably, without reservation, Executive I, Seventy-third Congress, second session, a convention between the United States of America and the United Mexican States, signed at Mexico City on April 24, 1934, providing for the en bloc settlement of the claims presented by the Government of the United States to the commission established by the special claims convention concluded September 10, 1923, instead of by international adjudication in each case as provided in that convention, and submitted a report (Exec. Rept. No. 5) thereon.

The VICE PRESIDENT. The reports will be placed on the calendar.

EDWARD G. DOLAN

Mr. LONERGAN. Mr. President, there has just been reported adversely from the Committee on Finance the nomination of Edward G. Dolan, of Connecticut, to be collector of internal revenue for the district of Connecticut. I ask unanimous consent for the present consideration of the nomination. It is an adverse report, made unanimously by the Committee on Finance.

Mr. McNARY. Mr. President, is this an effort upon the part of the able Senator from Connecticut to adopt an unfavorable report made by the committee?

Mr. LONERGAN. It is.

Mr. ROBINSON of Arkansas. The report of the committee is unanimous?

Mr. LONERGAN. That is correct.

The VICE PRESIDENT. The nomination will be reported.

The Legislative Clerk read the nomination of Edward G. Dolan, of Connecticut, to be collector of internal revenue for the district of Connecticut.

The VICE PRESIDENT. The question is, Will the Senate advise and consent to the nomination?

Mr. LONERGAN. I ask the Senate to reject the nomination.

The nomination was rejected.

THE CALENDAR—POSTMASTERS

The Legislative Clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask unanimous consent that nominations of postmasters be confirmed en bloc.

The VICE PRESIDENT. Without objection, it is so ordered. That completes the calendar.

RECESS

The Senate resumed legislative session.

Mr. ROBINSON of Arkansas. Mr. President, pursuant to the unanimous-consent agreement heretofore entered into, I move that the Senate take a recess until 10 o'clock a.m. Monday next.

The motion was agreed to; and (at 6 o'clock and 25 minutes p.m.) the Senate, under the unanimous-consent agreement previously entered into, took a recess until Monday, June 4, 1934, at 10 o'clock a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 1 (legislative day of May 28), 1934

POSTMASTERS

ARKANSAS

Otis H. Parham, Bald Knob.
Joseph T. Whillock, Clinton.
Ray Jones, Dardanelle.
James W. Burton, Marvell.
Guy Stephenson, Monticello.
Jennings Bryan Lancaster, Mountain View.
Lola B. Gregory, Portland.
Maude Simpkins, Shirley.

CALIFORNIA

Harold E. Rogers, Chowchilla.
Leonard E. Whitener, Coalinga.
Everard M. Hiatt, El Cerrito.
Lena M. Preston, Harbor City.
Wood I. Glasgow, Le Grand.
Paul W. McGrorty, McCloud.
Merle H. Wiswell, Roseville.
Richard T. Ambrose, Santa Barbara.

FLORIDA

John W. Barrs, South Miami.

KANSAS

Gertrude R. Seitz, Bunkerhill.
Margaret M. Hanlon, Caney.
Benjamin F. Hemphill, Clay Center.
Mae S. Hodgson, Downs.

Walter S. Davis, Florence.
William A. Harris, Le Roy.
William R. Jones, Reading.
George F. Riley, Soldier.
Esta S. Riseley, Stockton.
George Harman, Valley Falls.
Arthur A. LeBeau, Zurich.

KENTUCKY

Ralph E. Vaughn, Greensburg.

LOUISIANA

James R. Wooten, Monroe.
Jerome A. Gilbert, Tallulah.
Neil D. Womble, Winnsboro.

MARYLAND

Elizabeth H. S. Boss, Laurel.

MICHIGAN

Edward L. Kenny, Onekama.
James S. O'Rourke, Richmond.

MISSISSIPPI

John T. Miller, Myrtle.
James F. Howry, Sardis.
Hermine D. Walker, Senatobia.

NORTH DAKOTA

William E. Ravely, Edgeley.
Altha B. Waddell, Forbes.
James R. Turner, Fort Yates.
Max A. Wipperman, Hankinson.
James R. Brown, Heaton.
Richard J. Leahy, McHenry.
John F. Swanston, McVille.
Margaret E. Wirtzfeld, Martin.
Caroline Lipinski, Minto.
Peter M. Schmitz, Ray.
John D. Prindiville, Rutland.
Arthur W. Hendrickson, Walcott.

OREGON

Anona Rae Hodgen, Freewater.

TEXAS

Tom Calhoon, Liberty.

WITHDRAWAL

Executive nomination withdrawn from the Senate June 1 (legislative day of May 28), 1934

POSTMASTER

Enoch E. Lunquist to be postmaster at Sheffield, Pa.

REJECTION

Executive nomination rejected by the Senate June 1 (legislative day of May 28), 1934

COLLECTOR OF INTERNAL REVENUE

Edward G. Dolan, of Connecticut, to be collector of internal revenue for the district of Connecticut.

HOUSE OF REPRESENTATIVES

FRIDAY, JUNE 1, 1934

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D.D., offered the following prayer:

Blessed God, our Father, we thank Thee that by our yearnings and longings and manifold needs we wait at the altar of prayer with grateful hearts. Thou merciful One, by Thy wise guidance, make it easier for us to be good, virtuous, true, and generous. Life, with its unmatched conditions and circumstances, is filled with perplexities, whose history lies within the soul, never to be read until they are read in the Book of God. When success is turned into misfortune, our Father, may it not embitter us. Having done all, help us to stand. In the school of experience enable us to be patient, believe in Thee, and be trustful to the end. Gracious Lord, let Thy grace ripen all of us to peace, hope, and joy, and that with outward liberty there may come the more abundant liberty of the soul. Through Christ our Savior. Amen.

Mr. McGUGIN. Mr. Speaker, before the reading of the Journal, I make the point of no quorum.

The SPEAKER. Evidently, there is not a quorum present.

Mr. BYRNS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, when the following Members failed to answer to their names:

[Roll No. 161]

Abernethy	Connolly	Kniffin	Shannon
Allgood	Corning	Kvale	Shoemaker
Andrew, Mass.	Dear	Lea, Calif.	Simpson
Auf der Heide	Delaney	Lee, Mo.	Sinclair
Bailey	Dickstein	Lehlbach	Smith, W.Va.
Beck	Doutrich	Lesinski	Stokes
Black	Doxey	Lloyd	Strong, Pa.
Boland	Eaton	McGrath	Sullivan
Bolton	Fernandez	Marland	Sweeney
Boylan	Fish	Moynihan, Ill.	Taylor, S.C.
Brennan	Fitzgibbons	Muldowney	Thom
Britten	Foulkes	Murdock	Thurston
Brooks	Gambrill	Norton	Truax
Browning	Green	O'Connell	Underwood
Buckbee	Griffin	O'Malley	Vinson, Ga.
Bulwinkle	Hamilton	Oliver, N.Y.	Wadsworth
Cannon, Wis.	Harter	Peterson	Warren
Carley, N.Y.	Healey	Pettengill	Weaver
Cavicchia	Higgins	Plumley	Weideman
Celler	Hoeppel	Randolph	Wilcox
Chase	Hollister	Reid, Ill.	Wolfenden
Church	Jeffers	Richards	Wood, Ga.
Claiborne	Jenkins, Ohio	Rogers, Okla.	Zioncheck
Clark, N.C.	Kennedy, N.Y.	Sadowski	

The SPEAKER. Three hundred and thirty-five have answered to their names; a quorum is present.

On motion of Mr. BYRNS, further proceedings under the call were dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Latta, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On May 29, 1934:

H.R. 6803. An act to regulate the distribution, promotion, retirement, and discharge of commissioned officers of the Marine Corps, and for other purposes; and

H.R. 9068. An act to provide for promotion by selection in the line of the Navy in the grades of lieutenant commander and lieutenant, to authorize appointment as ensigns in the line of the Navy all midshipmen who hereafter graduate from the Naval Academy, and for other purposes.

On May 30, 1934:

H.R. 2837. An act to provide for the establishment of the Everglades National Park in the State of Florida, and for other purposes; and

H.R. 8617. An act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1935, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had passed with an amendment, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4460. An act to provide for the payment of compensation to George E. Q. Johnson.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3533. An act to amend the act entitled "An act creating the Mount Rushmore National Memorial Commission and defining its powers and purposes", approved February 25, 1929, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5884) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout